

CHAPTER 26B

INDUSTRIAL SITE RECOVERY ACT RULES

Authority

N.J.S.A. 13:1D-1 et seq., 13:1K-6, 58:10B-1 et seq., and
58:10-23.11a et seq.

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November 17, 1997

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SUBCHAPTER 1. GENERAL INFORMATION

7:26B-1.1 Scope and authority

This chapter constitutes the rules governing the implementation of the Industrial Site Recovery Act, P.L. 1993 c.139 (N.J.S.A. 13:1K-6 et seq.).

7:26B-1.2 Construction

This chapter shall be liberally construed to allow the Department to implement fully its statutory functions pursuant to the Act.

7:26B-1.3 Severability

If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operations to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof.

7:26B-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" or "ISRA" means the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq.

"Agricultural commodity" means any plant or part thereof, or animal or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

"Applicable remediation standard" means a remediation standard defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Area of concern" means any area defined as such pursuant to the Technical Requirements for Site Remediation.

"Authorization letter" means a written statement issued by the Department that authorizes an owner or operator of an industrial establishment to transfer ownership or operations or in the case of a cessation of operations, authorizes the cessation of operations as it relates to the owner and operators obligation to remediate the industrial establishment.

"Authorized agent" means the person authorized to receive correspondence or communications, on behalf of the person responsible for conducting the remediation of the industrial establishment, for matters covered by this chapter.

"Change in ownership" means, unless otherwise provided at N.J.A.C. 7:26B-2.2:

1. The sale or transfer of the business of an industrial establishment;
2. The sale or transfer of any of the real property on which the industrial establishment operates, including any of the block(s) and lot(s) upon which the operations of the industrial establishment are conducted and any contiguous block(s) and lot(s) controlled by the same owner or operator that are vacant land;
3. The sale or transfer of title to an industrial establishment or the real property of an industrial establishment by exercising an option to purchase;
4. The sale or transfer of a general partnership interest in a general partnership or in a limited partnership or the sale or transfer of a limited partnership interest in a limited partnership where the limited partner is liable for the obligation of the limited partnership pursuant to the limited partnership agreement or by law, which results in any one of the following:
 - i. The change in the general partner, or the limited partner where the limited partner is liable for the obligations of the partnership, holding the controlling interest in the direct owner or operator of the industrial establishment;
 - ii. The reduction, by 10 percent or more of the assets available for remediation of the industrial establishment; or
 - iii. The change in the general partner or the limited partner where the limited partner is liable for the obligations of the partnership, holding the controlling

interest in the indirect owner of the industrial establishment where the indirect owner's assets would be available for remediation pursuant to the criteria listed at N.J.A.C. 7:26B-2.2(b). Notwithstanding the reference to N.J.A.C. 7:26B-2.2(b), this definition does not require that a person submit an application for an applicability determination in order for a transaction to satisfy the standards set forth at N.J.A.C. 7:26B-2.2(b);

5. The sale or transfer of the sole general partner's entire interest in a limited partnership where the limited partnership is one of the following:

i. The limited partnership is the direct owner or operator of the industrial establishment; or

ii. The limited partnership has the controlling interest in the indirect owner of the industrial establishment where the indirect owner's assets would be available for remediation pursuant to the criteria listed at N.J.A.C. 7:26B-2.2(b). Notwithstanding the reference to N.J.A.C. 7:26B-2.2(b), this definition does not require that a person submit an application for an applicability determination in order for a transaction to satisfy the standards set forth at N.J.A.C. 7:26B-2.2(b);

6. The reorganization of a general or limited partnership into a corporation, limited liability company, limited liability partnership or other similar business entity;

7. The sale or transfer of stock in a corporation or interest in a limited liability company, resulting in a merger or consolidation involving the direct owner or operator or indirect owner of the industrial establishment;

8. The sale or transfer of stock in a corporation or interest in a limited liability company, resulting in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of the industrial establishment; and

9. The sale or transfer of interests in a limited liability company that owns or operates an industrial establishment, is the direct owner or operator or indirect owner of an industrial establishment, where the indirect owner's assets would be available for remediation pursuant to the criteria listed at N.J.A.C. 7:26B-2.2(b), that would reduce, by 10 percent or more, the assets available for remediation of the industrial establishment.

"Closing operations" means, unless otherwise provided at N.J.A.C. 7:26B-2.4:

1. The cessation of operations which, as measured on a constant, annual date-specific basis, within any five-year period:

i. Results in at least a 90 percent reduction in the total value of the product output from the entire industrial establishment; or

ii. For industrial establishments which product output is undefined:

(1) Results in at least a 90 percent reduction in the number of employees;
or

- (2) Results in at least a 90 percent reduction in the area of operations of an industrial establishment;
2. Any temporary cessation of operations of an industrial establishment for a period greater than two years;
3. An industrial establishment becomes nonoperational for health or safety reasons as a result of a judicial proceeding or final agency action;
4. The initiation of bankruptcy proceedings pursuant to Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701 et seq. or the filing of a plan of reorganization that provides for a liquidation pursuant to Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 1101 et seq.;
5. Any change of operations of an industrial establishment that changes the industrial establishment's Standard Industrial Classification number to one that is not subject to ISRA;
6. The termination of a lease or sublease, unless there is no disruption in operations of the industrial establishment; and
7. The assignment of a lease or sublease, unless there is no change in the operator of the industrial establishment and there is no disruption in operations of the industrial establishment.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her authorized representative.

"Controlling interest" means the interest held by a person or person(s) who possess(es) the power to direct or cause the direction of the management and policies of a corporation, partnership or other business entity based on the criteria in N.J.A.C. 7:26B-2.2(d). Notwithstanding the reference to N.J.A.C. 7:26B-2.2(d), this definition does not require that a person submit an application for an applicability determination in order for a person or transaction to satisfy the standards set forth at N.J.A.C. 7:26B-2.2(d).

"Corporate reorganization not substantially affecting ownership" means the restructuring or reincorporation by the management or owners of an entity, which does not diminish the availability of assets for any remediation, diminish the Department's ability to reach those assets, or otherwise hinder the owner's or operator's ability to remediate the industrial establishment based on the criteria in N.J.A.C. 7:26B-2.2(c). Notwithstanding the reference to N.J.A.C. 7:26B-2.2(c), this definition does not require that a person submit an application for an applicability determination in order for a transaction to satisfy the standards set forth at N.J.A.C. 7:26B-2.2(c).

"Department" means the New Jersey Department of Environmental Protection.

"Direct owner or operator" means any person that directly owns or operates an industrial establishment. A holder of a mortgage or other security interest in the industrial establishment shall not be deemed to be a direct owner or operator of

the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of a hazardous substance or hazardous waste into the waters or onto the lands of the State.

"Engineering controls" means any physical mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"GIN" means General Information Notice described at N.J.A.C. 7:26B-3.3(a).

"Hazardous substance" means any substance defined as such pursuant to the Discharges of Petroleum and Other Hazardous Substances Regulations, N.J.A.C. 7:1E.

"Hazardous waste" means any waste defined as such pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E et seq., that is further defined as a hazardous waste pursuant to the Solid Waste Regulations, N.J.A.C. 7:26-1.6.

"Indirect owner" means any person who holds a controlling interest in a direct owner or operator, holds a controlling interest in another indirect owner, or holds an interest in a partnership which is the indirect owner or a direct owner or operator, of an industrial establishment.

"Industrial establishment" means any place of business or real property at which such business is conducted, having the primary SIC major group number within 22-39 inclusive, 46-49 inclusive, 51 or 76 as designated in, and determined in accordance with, the procedures described in the SIC manual and engaged in operations on or after December 31, 1983, which involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances and wastes on-site, above or below ground unless otherwise provided at N.J.A.C. 7:26B-2.1. Except as provided below for lease properties, the industrial establishment includes all of the block(s) and lot(s) upon which the business is conducted and those contiguous block(s) and lot(s) controlled by the same owner or operator that are vacant land, or that are used in conjunction with such business. For lease properties, the industrial establishment includes the leasehold and any external tank, surface impoundments, septic systems, or any other structures, vessels, contrivances, or units that provide, or are utilized for, hazardous substances and wastes to or from the leasehold.

"Innovative remedial action technology" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Institutional controls" means a mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Limited restricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Negative declaration" means a written declaration, submitted by the owner or operator of an industrial establishment, or other person assuming responsibility for the remediation under ISRA and this chapter, to the Department certifying that there has been no discharge of hazardous substances or hazardous wastes on the industrial establishment, or that any such discharge on the industrial establishment or discharge that has migrated from the industrial establishment has been remediated in accordance with procedures approved by the Department and in accordance with N.J.A.C. 7:26E.

"No further action letter" means a written determination by the Department that, based upon an evaluation of the historical use of the industrial establishment, or of an area of concern or areas of concern, as applicable, and any other investigation or action the Department deems necessary, there are no discharged hazardous substances or hazardous wastes present at the industrial establishment or area(s) of concern, or any other property to which discharged hazardous substances or hazardous wastes originating at the industrial establishment have migrated, or that any discharged hazardous substances or hazardous wastes present at the industrial establishment or that have migrated from the industrial establishment have been remediated in accordance with applicable remediation regulations. The Department may issue a "no further action letter" if hazardous substances or hazardous wastes remain on the industrial establishment or any other property with appropriate engineering and institutional controls.

"Operator" means any person, including users, tenants, or occupants, having and exercising direct actual control of the operations of an industrial establishment. A holder of a mortgage or other security interest in the industrial establishment is not an operator of the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Owner" means any person who owns the real property of an industrial establishment or who owns the industrial establishment. A holder of a mortgage or other security interest in the industrial establishment is not an owner of the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Person" means any individual or entity, including without limitation, a public or private corporation, company, estate, association, society, firm, partnership, joint stock company, foreign individual or entity, interstate agency or authority, the United States and any of its political subdivisions, the State of New Jersey, or any of the political subdivisions of within the State of New Jersey, or any of the other meanings which apply to the common understanding of the term.

"Preliminary assessment" means the first phase of remediation defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial action" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial action workplan" means a plan defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial investigation" means those actions to investigate a discharge defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remediation" or "remediate" means all necessary actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remediation agreement" means a document the Department issues for the transfer of an industrial establishment prior to the completion of the remediation.

"Restricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Restricted use standard" means a remediation standard as defined in N.J.A.C. 7:26E-1.8.

"SIC" means Standard Industrial Classification.

"SIC manual" means the edition of the Standard Industrial Classification manual, prepared by the Office of Management and Budget in the Executive Office of the President of the United States, in effect at the time of the transaction.

"Site investigation" means the collection and evaluation of data defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Transferring ownership or operations" means:

1. Any transaction or proceeding through which an industrial establishment undergoes a change in ownership;
2. The sale or transfer of more than 50 percent of the assets of an industrial establishment, excluding real property within any five-year period as measured on a constant, annual date-specific basis. The term does not include the sale or transfer of equipment or machinery in order to replace, modify, or retool existing equipment or machinery;
3. The execution of a lease for a period of 99 years or longer for an industrial establishment;
4. The dissolution of an entity that is an owner or operator or indirect owner of an industrial establishment, except for any dissolution of an indirect owner of an industrial establishment whose assets would have been unavailable for the remediation of the industrial establishment if the dissolution had not occurred; or
5. Any transfer of an industrial establishment to a trust, except where grantor and beneficiary are identical or are members of the same family. As used in this paragraph, "family" means any of the relations included at N.J.A.C. 7:26B-2.1(a)4.

"Unrestricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Unrestricted use standard" means a remediation standard as defined in N.J.A.C. 7:26E.

7:26B-1.5 Forms and submissions

Any forms or applications required by this chapter may be obtained from and returned to the following address:

Division of Responsible Party Site Remediation
New Jersey Department of Environmental Protection
401 East State Street
PO Box 028
Trenton, New Jersey 08625-0028

7:26B-1.6 Certifications and signatories

(a) Any person submitting an application, workplan, report or other submission to the Department pursuant to ISRA and this chapter shall include the certification provided at (c) below, as applicable. The person submitting the certification provided at (c) below shall sign the certification in accordance with (e) below.

(b) Any person submitting a remediation agreement application or remediation agreement amendment application to the Department pursuant to ISRA and N.J.A.C. 7:26B-4 shall include the certifications provided at (d)1, 2 and 3 below in addition to the certification required pursuant to (a) above, prior to the Department's issuance of the remediation agreement or a remediation agreement amendment. The person submitting the certifications provided at (d)1, 2 and 3 below shall sign the certifications in accordance with (e) below.

(c) The following certification is for any application, workplan, report or other request to the Department pursuant to ISRA and this chapter:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, To the best of my knowledge the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of N.J.S.A. 13:1K-6 et seq., I am personally liable for the penalties set forth at N.J.S.A. 13:1K-13."

(d) The following certifications are for any remediation agreement application or remediation agreement amendment application submitted to the Department pursuant to ISRA and N.J.A.C. 7:26B-4:

1. The owner or operator of the industrial establishment shall execute the following certification:

"I hereby certify that I am fully aware of the requirements of the Industrial Site Recovery Act, N.J.S.A. 13:1K-1 et seq., as it pertains to the remediation of the

industrial establishment subject to this remediation agreement. Specifically, I am fully aware of the responsibilities of the owner or operator of the industrial establishment to remediate the site in accordance with ISRA and this chapter. I acknowledge that a remediation agreement has been requested to allow the transaction referenced in the remediation agreement application to proceed prior to completion of all ISRA compliance requirements and that the person entering into the remediation agreement is agreeing to comply with all ISRA requirements. I further acknowledge that the execution of a remediation agreement shall not release [Person] from any responsibilities [Person] have pursuant to ISRA and this chapter."

2. The owner or operator of the industrial establishment shall execute the following certification:

"I hereby certify that I acknowledge that the transaction and industrial establishment that are the subject of this remediation agreement is a transfer of ownership or operations of an industrial establishment as defined by ISRA and N.J.A.C. 7:26B. I further acknowledge that [Person] is subject to penalties for violations of ISRA and this N.J.A.C. 7:26B. I am fully aware of [Person's] responsibilities to allow the Department access to the subject industrial establishment and of the requirements to prepare and submit any documents relevant to the remediation of the subject industrial establishment as required by the Department."

3. The purchaser, transferee, or lessee of the industrial establishment shall execute the following certification:

"I hereby certify that [Person] is the transferee and/or new lessee of the industrial establishment subject to this remediation agreement. I have read this application and am aware of the requirements and conditions of ISRA and the remediation agreement. [Person] expressly agrees to allow the Department, seller, previous owner, previous operator, any other person subject to the remediation agreement, and any of their respective agents or assignees the right to enter the industrial establishment after the ISRA-subject transaction has taken place and/or the lease has been executed for completion of the remediation of the industrial establishment. Additionally, I acknowledge and understand that if a restricted use or limited restricted use remedial action is warranted at the subject industrial establishment, institutional controls and engineering controls as defined in N.J.S.A. 13:1K-6 et seq., N.J.S.A. 58:10B-1 et seq., N.J.A.C. 7:26C, N.J.A.C. 7:26E and N.J.A.C. 7:26B may be necessary."

(e) The certifications required by (a) and (b) above shall be executed as follows:

1. For a corporation or limited liability company, by a principal executive officer of at least the level of vice president;

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

3. For a municipality, state, Federal or other public agency, by either a principal executive officer or ranking elected official; or

4. By a duly authorized representative of the corporation, partnership, sole proprietorship, municipality, state or Federal or other public agency, as applicable. A person is deemed to be a duly authorized representative if the person is authorized in writing by an individual described in (e)1, 2 or 3 above and the authorization meets the following criteria:

i. The authorization specifies either an individual or a position having responsibility for the overall operation of the industrial establishment or activity, such as the position of plant manager, or a superintendent or person of equivalent responsibility (a duly authorized representative may thus be either a named individual or any individual occupying a named position);

ii. The written authorization is submitted to the Department; and

iii. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the industrial establishment or activity, a new authorization satisfying the requirements of this section shall be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(f) All signatures required by this section shall be notarized.

7:26B-1.7 Department review

(a) The Department shall review and approve or disapprove all submissions by an owner or operator based on the following criteria:

1. Whether the remediation workplan and report was prepared, implemented or completed in compliance with N.J.A.C. 7:26C, 7:26E and this chapter;

2. Whether all the information and documents required to be submitted to the Department have been submitted; and

3. Whether the information submitted is sufficient, complete or accurate.

(b) The Department shall inform the owner or operator, in writing, of the results of the Department's review of the submission, including any deficiencies in the submittal or required additional remediation. The owner or operator shall then complete all required additional remediation and address any deficiencies prior to the Department's issuance of a no further action letter or authorization letter.

7:26B-1.8 No further action letter and authorization letter

(a) The Department shall issue a no further action letter upon the Department's approval of the remediation of an industrial establishment or area of concern pursuant to ISRA and this chapter. The scope of the no further action letter shall be consistent with the scope of the remediation that the Department has approved.

(b) The Department's issuance of a no further action letter pursuant to ISRA and this chapter may include an authorization for the owner or operator to close

operations or transfer ownership or operations of the industrial establishment as designated in the General Information Notice pursuant to N.J.A.C. 7:26B-3.2.

(c) The Department may authorize an owner or operator to transfer ownership or operations of an industrial establishment, or in the case of a cessation of operations authorize the cessation as it relates to ISRA compliance, through the issuance of an authorization letter without, or prior to the issuance of, a no further action letter in the following circumstances:

1. The Department's issuance of a remediation agreement or remediation agreement amendment pursuant to N.J.A.C. 7:26B-4;
2. The Department's approval of a regulated underground storage tank waiver application pursuant to N.J.A.C. 7:26B-5.3(e);
3. The Department's approval of a remediation in progress waiver application pursuant to N.J.A.C. 7:26B-5.4(d);
4. The Department's approval of a minimal environmental concern review application pursuant to N.J.A.C. 7:26B-5.6(e); and
5. The Department's approval of a remedial action workplan deferral pursuant to N.J.A.C. 7:26B-5.8(d).

(d) The issuance of an authorization letter pursuant to (c) above may not relieve the owner or operator or any person responsible for conducting the remediation of the industrial establishment, of the obligations to remediate the industrial establishment pursuant to ISRA, this chapter and any other applicable law.

7:26B-1.9 Right of entry and inspection

(a) The owner or operator shall expressly consent in writing pursuant to ISRA and this chapter to entry of the industrial establishment by the Department and its authorized representatives, upon the presentation of credentials, to inspect the site, buildings and records related to environmental issues and to take samples from the site, in which case the owner or operator shall be provided with split samples upon his or her request, photograph the site and the buildings, and to make copies of the records.

(b) The buyer or transferee of the industrial establishment that has been sold subsequent to obtaining an approved remedial action workplan or remediation agreement from the Department shall:

1. Allow the Department and/or its authorized representatives, upon the presentation of credentials, to enter the transferred premises to inspect the site, buildings and records related to environmental issues, and to take samples from the site, photograph the site and the buildings and to make copies of the records; where the Department takes samples from the site, the buyer or transferee shall be provided with split samples upon his or her request; and
2. Allow access to the transferred premises by the duly authorized representatives of the seller or transferor to implement a duly approved

remedial action workplan or comply with the conditions of a remediation agreement.

(c) The owner or operator or other person subject to ISRA or who is a party to a remediation agreement shall as necessary:

1. Have appropriate technical, scientific, and engineering representatives, as necessary, accompany the Department and its authorized representative during the inspection; and

2. Provide all assistance, through appropriate technical, scientific and engineering representative(s), to the Department and its authorized representative(s) during any site inspection.

7:26B-1.10 Liability for ISRA compliance

(a) Except as provided in (e) below and notwithstanding (f), (g) and (h) below, both the owner and operator are strictly liable without regard to fault, for compliance with ISRA and this chapter.

(b) At the Department's discretion, any other person, including, without limitation, a purchaser, transferee, or mortgagee, may sign a remediation agreement; however, such persons shall become responsible for the remediation of the industrial establishment for compliance with ISRA.

(c) An owner or operator shall not transfer ownership or operations of an industrial establishment until:

1. The Department has issued a no further action letter for the industrial establishment pursuant to N.J.A.C. 7:26B-1.8(a);
2. The Department has approved a remedial action workplan for the industrial establishment pursuant to N.J.A.C. 7:26B-1.7(b);
3. The owner or operator has executed a remediation agreement or remediation agreement amendment issued by the Department pursuant to N.J.A.C. 7:26B-4.1(b); or
4. The Department has issued an authorization letter to the owner or operator pursuant to N.J.A.C. 7:26B-1.8(c).

(d) An owner or operator that is closing operations shall be required to amend the General Information Notice submitted in accordance with N.J.A.C. 7:26B-3.2(a) for any subsequent transfer of ownership or operations of the industrial establishment that occurs prior to (c)1 or 2 above.

(e) Any person, other than the owner or operator of the industrial establishment, that has obtained title to the industrial establishment by deed of foreclosure, by other deed or transfer, or by court order or other process, shall not be deemed an owner or operator of that industrial establishment where the operator had closed operations prior to the transfer of title and where no new industrial establishment has operated under the person's ownership. Nothing contained herein shall be construed as a waiver or release of liability by the Department of an owner or operator subject to the requirements of this chapter for the industrial establishment.

(f) Where the owner of an industrial establishment is a landlord and the operator of the industrial establishment is a tenant, and there has been a failure to comply with the provisions of this chapter, the landlord or the tenant may petition the Department to seek ISRA compliance from that party who is responsible pursuant to the provisions of the lease, to comply with the requirements of this chapter. The petitioning party shall submit the following to the Department at the address provided at N.J.A.C. 7:26C-1.5:

1. A written request to the Department to seek ISRA compliance first from that party that has agreed to be responsible pursuant to the provisions of a

lease. The written request shall be in the form of a Landlord/Tenant Petition as specified in Appendix B incorporated herein by reference. The petitioning party shall send a copy of the petition to the other party(s) to the lease, by certified mail, return receipt requested, at the time of the mailing of the petition to the Department; and

2. A copy of the signed lease between the landlord and tenant.

(g) Based on the information submitted pursuant to (f)1 and 2 above, the Department may determine that the lease clearly defines the responsibilities of either person to comply with the provisions of this chapter. The Department shall seek ISRA compliance from the person deemed responsible pursuant to the lease. The Department's determination shall not be construed as a waiver or release of liability by the Department of any other person who may be subject to the requirements of this chapter for the industrial establishment.

(h) The Department may compel compliance by both parties if the Department determines that the lease does not clearly define the responsibilities of the owner or operator of the industrial establishment, or upon the failure by the person responsible pursuant to the lease to comply with the provisions of this chapter.

7:26B-1.11 Civil penalties

(a) Any person who knowingly gives or causes to be given any false information or who fails to comply with the provisions of the Act or this chapter shall be liable for a civil penalty of not more than \$25,000 for each offense. If the violation is of a continuing nature, each day during which it continues shall constitute an additional and separate offense.

(b) Penalties shall be collected in a civil action by a summary proceeding under the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

(c) Any officer or management official of an industrial establishment who knowingly directs or authorizes the violation of any provision of ISRA or this chapter shall be personally liable for any penalties provided by ISRA or this chapter.

(d) In its discretion, the Department may compromise and settle any claim for a penalty pursuant to ISRA or this chapter.

SUBCHAPTER 2. APPLICABILITY

7:26B-2.1 Operations and transactions not subject to ISRA

(a) The following transactions shall not be considered closing operations or transferring of operations or ownership:

1. Corporate reorganization not substantially affecting the ownership or control of the industrial establishment in accordance with N.J.A.C. 7:26B-2.2(c);

2. A transaction or series of transactions involving the transfer of stock and/or assets among corporations under common ownership if the transaction or transactions will not result in:

i. The diminution of the net worth of the corporation that directly owns or operates the industrial establishment by more than 10 percent; or

ii. A greater or equal amount of assets are available for the remediation of the industrial establishment before and after the transaction or transactions;

3. A transaction or series of transactions involving the transfer of stock and/or assets resulting in the merger or de facto merger or consolidation of the indirect owner with another person, when the indirect owner's assets would have been unavailable for remediation in accordance with N.J.A.C. 7:26B-2.2(b) if the transaction or transactions had not occurred;

4. A transaction or series of transactions involving the transfer of stock and/or assets resulting in a change in the person holding the controlling interest of an indirect owner of an industrial establishment, when the indirect owner's assets would have been unavailable for remediation in accordance with N.J.A.C. 7:26B-2.2(b) if the transaction or transactions had not occurred;

5. A transfer where the transferor is the sibling, spouse, child, parent, grandparent, spouse of child, child of a sibling, or sibling of a parent, of the transferee;

6. A transfer to confirm or correct any deficiencies in the recorded title of an industrial establishment;

7. A transfer to release a contingent or reversionary interest except for any transfer of a lessor's reversionary interest in leased real property;

8. A transfer of an industrial establishment by devise or intestate succession;

9. The granting or termination of an easement or a license to any portion of an industrial establishment;

10. The sale or transfer of real property or closing operations of an industrial establishment pursuant to a condemnation proceeding initiated pursuant to the "Eminent Domain Act of 1971," N.J.S.A. 20:3-1 et seq.;

11. The execution, delivery and filing or recording of any mortgage, security interest, collateral assignment or other lien on real or personal property or refinancing of any debt not including a sale and lease back, by the owner or operator of an industrial establishment;

12. Any transfer of personal property pursuant to a valid security agreement, collateral assignment or other lien, including, but not limited to, seizure or replevin of such personal property which transfer is for the purpose of implementing the secured party's rights in the personal property which is the collateral;

13. A sale or transfer of assets of an industrial establishment that is in the ordinary course of business;

14. The termination of a lease of an industrial establishment where the lease is renewed by the same tenant without a disruption in operations;

15. The execution of a lease for a period of less than 99 years;

16. The sale of a single or multi-family dwelling used primarily for residential purposes;

17. The transfer to a beneficiary pursuant to the terms of a trust;

18. The change, substitution or replacement of a trustee, administrator, executor, guardian, conservator or fiduciary, where the trust, estate or other similar mechanism is an owner or operator of an industrial establishment;

19. Obtaining construction loans by the owner or operator of an industrial establishment;

20. A change in SIC number as a result of a change in the SIC manual without a change in the operations of the industrial establishment;

21. The sale or transfer of stock or assets, or both, in a corporation, if the sale or transfer is part of a reorganization of the corporation into a limited liability company, which shall not result in the diminution of the net worth of the corporation and limited liability company, respectively, that directly owns or operates the industrial establishment, before and after the transaction or transactions and does not result in a change in the person or person holding the controlling interest of the entity; and

22. A transaction or series of transactions involving the transfer of stock or assets of a corporation, or the sale or transfer of interests in a limited liability company, that is a direct owner or operator or indirect owner of an industrial establishment, resulting in a merger or consolidation, where the direct owner or operator or indirect owner of an industrial establishment is the surviving or resulting person.

(b) The following operations are not industrial establishments:

1. Those portions of a solid waste or hazardous waste facility subject to operational closure or post-closure maintenance requirements pursuant to the following:

i. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;

ii. The Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq.; or

iii. The Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.;

2. Any office, located on a separate tax lot and block from the industrial establishment it serves, in which personnel are engaged primarily in general administrative, personnel, supervisory, accounting, purchasing, engineering and systems planning, advertising, legal, financial, sales or other related management functions provided however this "office" exemption shall not apply where separate lots and blocks are or have been established after December 31, 1983, at the site of an existing industrial establishment;

3. Any business entity engaged primarily in the production or distribution of agricultural commodities;

4. Retail gasoline stations with a SIC major group number of 55;

5. Automobile repair and automobile body shops with a SIC major group number of 75;

6. Agricultural land and associated structures;

7. Undeveloped or vacant land provided that:

i. No industrial establishment has operated on such vacant land since December 31, 1983; and

ii. The contiguous land is not an industrial establishment under the same control or ownership as the vacant land in question;

8. Facilities engaged in the retail sale of fuel oil with a SIC major group number of 59;

9. Facilities engaged in the retail sale of goods with a SIC major group number of 52-59; and

10. Operations engaged in the wholesale distribution of durable goods with a SIC major group number of 50 including, but not limited to, the following:

i. Motor vehicles and automotive parts;

ii. Furniture;

iii. Lumber;

iv. Metals;

v. Electrical goods;

vi. Sporting goods;

vii. Hardware;

viii. Machinery; and

ix. Jewelry.

(c) The following subgroups or classes of operations within those subgroups in the Standard Industrial Classification major group numbers 22-39 inclusive, 46-49 inclusive, 51 or 76 are exempt from the provisions of this chapter:

SIC Industry Number	Description
1. 2321	Men's and Boy's Shirts, except work shirts
2. 2342	Brasseries, Girdles and Allied Garments
3. 2371	Fur Goods
4. 2384	Robes and Dressing Gowns
5. 2385	Waterproof Outerwear
6. 2386	Leather and Sheep-lined Clothing
7. 2387	Apparel Belts
8. 2393	Textile Bags
9. 2436	Softwood Veneer and Plywood
10. 2441	Wood Containers, Not Elsewhere Classified
11. 2451	Mobile Homes
12. 3131	Boot and Shoe Cut Stock and Findings
13. 3142	House Slippers
14. 3144	Women's Footwear, except Athletic
15. 3149	Footwear, Except Rubber, Not Elsewhere Classified
16. 3199	Leather Goods, Not Elsewhere Classified
17. 4724	Travel Agencies
18. 4725	Tour Operators
19. 4729	Arrangement of Passenger Transportation, Not Elsewhere Classified
20. 4731	Arrangement of Transportation of Freight and Cargo
21. 4785	Fixed Facilities and Inspection and Weighing Services for Motor Vehicles (Highway bridges, operation of; Toll bridge operation; Toll roads, operation of; Tunnel operation, vehicular; only)
22. 4789	Transportation Services, Not Elsewhere Classified
23. 4812	Radio Communications
24. 4813	Telephone Communications, Except Radio Telephone
25. 4822	Telegraph and Other Message Communications
26. 4832	Radio Broadcasting
27. 4833	Television Broadcasting
28. 4841	Cable and Other Pay Television Services
29. 4899	Communication Services, Not Elsewhere Classified
30. 4941	Water Supply
31. 4952	Sewage Systems
32. 4953	Refuse Systems (Landfills, sanitary: operations of, only)
33. 4971	Irrigation System
34. 5111	Wholesale Distribution of Printing and Writing Paper
35. 5112	Wholesale Distribution of Stationery Supplies
36. 5113	Wholesale Distribution of Industrial and Personal Service Paper
37. 5131	Piece Goods, Notions, and Other Dry Goods
38. 5136	Wholesale Distribution of Men's and Boys' Clothing

39. 5137 Wholesale Distribution of Women's, Children's and Infant's Clothing
40. 5139 Wholesale Distribution of Footwear
41. 5141 Wholesale Distribution of Groceries, General Line
42. 5142 Wholesale Distribution of Frozen Food
43. 5143 Wholesale Distribution of Dairy Products
44. 5144 Wholesale Distribution of Poultry Products
45. 5145 Wholesale Distribution of Confectionery
46. 5146 Wholesale Distribution of Fish
47. 5147 Wholesale Distribution of Meats
48. 5148 Wholesale Distribution of Fresh Fruits and Vegetables
49. 5149 Wholesale Distribution of Groceries and Related Products, Not Elsewhere Classified
50. 5153 Wholesale Distribution of Grain
51. 5154 Wholesale Distribution of Livestock
52. 5159 Wholesale Distribution of Farm Products, Raw Materials, Not Elsewhere Classified
53. 5181 Wholesale Distribution of Beer and Ale
54. 5182 Wholesale Distribution of Wine
55. 5192 Books, Periodicals, and Newspapers
56. 5193 Flowers, Nursery Stock, and Florists' Supplies
57. 5199 Wholesale Distribution of Nondurable Goods, Not Elsewhere Classified
58. 7622 Radio and Television Repair Shops
59. 7631 Watch, Clock and Jewelry Repair
60. 7699 Repair Shops and Related Services, Not Elsewhere Classified
(only the following repair services under 7699 are exempt from the Act and this chapter. All other repair services under 7699 not listed below remain subject to the Act and this chapter):
 - i. Awning Repair
 - ii. Bicycle Repair Shops
 - iii. Binoculars and Other Optical Goods Repair
 - iv. Camera Repair
 - v. Harness Repair Shops
 - vi. Horseshoeing
 - vii. Key Duplicating Shops
 - viii. Lawn Mower Repair Shop
 - ix. Leather Goods Repair Shops
 - x. Lock Parts Made to Individual Order
 - xi. Locksmith Shops
 - xii. Luggage Repair Shops
 - xiii. Musical Instrument Repair Shops
 - xiv. Organ Tuning and Repair
 - xv. Piano Tuning and Repair
 - xvi. Picture Framing to Individual Order (Not Connected with Retail Stores)
 - xvii. Pocketbook Repair Shops
 - xviii. Precision Instrument Repair
 - xix. RENEEDLING Work
 - xx. Repair of Optical Instruments
 - xxi. Repair of Photographic Equipment
 - xxii. Repair of Speedometers

- xxiii. Rug Repair Shops (Not Combined with Cleaning)
- xxiv. Saddlery Repair Shops
- xxv. Scale Service Repair
- xxvi. Sewing Machine Repair
- xxvii. Tent Repair Shops
- xxviii. Typewriter Repair (Including Electric)
- xxix. Venetian Blind Repair Shops
- xxx. Window Shade Repair Shops

7:26B-2.2 Applicability determinations

(a) In order to obtain a determination from the Department concerning the applicability of this chapter to a specific place of business or transaction, a person shall:

1. Submit a completed application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5. In summary, the information required in the application includes: the name of the business conducted on site, the SIC number of the business, the location of the business, or description of the proposed transaction, a description of operations conducted on site, the name of the person owning the real property, and information regarding the presence of hazardous substances used in the operations on site;
2. Grant written permission for the Department to enter and inspect the site and operations for which the applicability determination is requested;
3. Submit the applicable fee in accordance with N.J.A.C. 7:26B-8.1 required for applicability determinations; and
4. Demonstrate to the Department that ISRA or this chapter is not applicable by providing, in writing, the relevant basis for the applicant's position. As part of such demonstration, all applicable requirements of (b), (c) and (d) below shall be satisfied.

(b) For applicability determinations requested for a transfer of ownership or operations involving an evaluation of whether the indirect owner's assets would have been available for remediation, the Department shall evaluate, without limitation, the applicant's responses to (b)1 through 6 below, to determine whether the indirect owner has exercised control over the industrial establishment or the direct owner or operator thereof. An affirmative finding that the indirect owner has exercised control over the industrial establishment or the direct owner or operator thereof, would result in a determination that the indirect owner's assets would have been available for remediation. If the applicant determines that any of the criteria outlined below is not

applicable to this evaluation, then the applicant shall affirmatively state the basis for this determination. The applicant shall:

1. Identify each direct owner and each indirect owner of the industrial establishment;

2. Identify whether the indirect owner has exerted fiscal control over the direct owner or industrial establishment including, but not limited to, imposing any restriction upon the financing, borrowing, budgeting, dividends and cash management of the direct owner or industrial establishment;

3. List all persons that are officers and directors for both the direct owner and the indirect owner of the industrial establishment to establish whether the officers, directors and employees of the indirect owner constitute a majority of the directors of the direct owner or the industrial establishment or such smaller number of directors as is sufficient to effectively direct the management and policies of the direct owner or the industrial establishment;

4. Identify whether the officers, directors and employees of the indirect owner are involved in the day-to-day operations of the direct owner or the industrial establishment and whether the day-to-day operations of the direct owner or the industrial establishment are relevant to the generation, manufacture, handling, storage or disposal of hazardous substances or hazardous wastes;

5. Identify whether the indirect owner has the ability to control the activities, policies or decisions of the direct owner or the industrial establishment and whether these activities, policies or decisions are relevant to the generation, handling, storage or disposal of hazardous substances or hazardous wastes; and

6. The applicant shall provide any additional information which may be relevant to this determination.

(c) For applicability determinations requested for a transfer of ownership or operations involving an evaluation of whether the subject transaction is a corporate reorganization not substantially affecting the ownership of the industrial establishment, the Department shall evaluate, without limitation, the applicant's responses to (c)1 through 6 below, to determine whether the subject transaction does not entail significant changes in the financial ability of a person to comply with this chapter. A finding that the subject transaction does not entail significant changes in the financial ability of a person to comply with this chapter would result in a determination that the subject transaction is a corporate reorganization not substantially affecting the ownership of the industrial establishment. If the applicant determines that any of the criteria outlined below is not applicable to this evaluation, then the applicant shall affirmatively state the basis for this determination. The applicant shall:

1. Identify each direct owner of the industrial establishment, indirect owner of the industrial establishment and the organizational structure of the person, prior to, and after the proposed transaction;

2. Identify whether the transaction involves the transfer of stock and/or assets, solely among persons under common ownership or control and/or shareholders or owners of such persons. A transaction between related corporations that prepare financial statements or tax returns on a consolidated basis will be presumed to be among corporations under common ownership or control;

3. Identify:

i. Whether the transaction will result in an aggregate diminution of more than 10 percent in the net worth of the industrial establishment or of the person directly owning or operating the industrial establishment. The applicant must include all transactions occurring within the five-year period preceding the date of the proposed transaction in the calculation of "aggregate diminution"; or

ii. Whether there is an equal or greater amount in assets that is available for the remediation of the industrial establishment before and after the transaction(s);

4. Identify whether the transferee has a registered agent in New Jersey who is authorized to accept service on behalf of the transferee. If so, the applicant shall provide the name and address of the registered agent;

5. Identify whether the assets of an indirect owner transferring any direct or indirect interest in the stock or assets of the industrial establishment would have been available for the remediation of the industrial establishment based upon the criteria set forth in (b) above; and

6. Provide any additional information which may be relevant to this determination.

(d) For applicability determinations requested for a transfer of ownership or operations involving an evaluation of whether the subject transaction is a transfer of a controlling interest in the industrial establishment, the Department shall evaluate, without limitation, the applicant's responses to (d)1, 2 and 3 below, to determine whether the subject transaction results in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of an industrial establishment. A finding that the subject transaction does result in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of an industrial establishment would result in a determination that the transaction is a change in ownership as defined by N.J.A.C. 7:26B-1.4. If the applicant determines that any of the criteria outlined below is not applicable to this evaluation, then the applicant shall affirmatively state the basis for this determination. The applicant shall:

1. Identify whether the transferor is transferring more than 50 percent of the voting or ownership interest in the direct owner or operator or indirect owner of an industrial establishment. There is a rebuttable presumption that any person who has more than 50 percent of the voting or ownership interest holds a controlling interest in that direct owner or operator or indirect owner; or

2. Identify whether the transferor is transferring 50 percent or less of a voting or ownership interest in the direct owner or operator or indirect owner of an industrial establishment and:

i. Identify whether the transferor possess(es), directly or indirectly, the power to direct or cause the direction of the management and policies of the entity; and

ii. Identify whether a voting trust, shareholder's agreement, proxy or similar agreement exists which would enable the transferor to elect a majority of the board of directors or a smaller number of directors sufficient to effectively direct or cause the direction of the management and policies of the entity; and

3. Provide any additional information which may be relevant to this determination.

(e) The applicant for an applicability determination that is required under this section to provide information concerning the net worth of any person shall include the following information listed in (e)1 and 2 below in its applicability determination application:

1. A statement of income and expenses or similar statement of each direct owner or operator or indirect owner of the industrial establishment, as applicable; and

2. An audited balance sheet or similar statement of assets and liabilities of each direct owner or operator or indirect owner of the industrial establishment, as applicable, as used by that person for the preceding fiscal year that ended closest in time to the date of the applicability determination application.

(f) The Department shall, within 45 calendar days after receipt of a complete application for an applicability determination, advise the applicant in writing, of its decision. Any person who requests an applicability determination pursuant to this chapter and does not receive a written response from the Department within the deadlines imposed by this subchapter shall not be entitled to assume that the transaction or operations were found not subject to ISRA.

7:26B-2.3 De minimis quantity exemption

(a) An owner or operator who is granted a de minimis quantity exemption from the Department shall be exempt from the provisions of this chapter, except as provided at N.J.A.C. 7:26B-8.1, based on de minimis quantities of hazardous substances or hazardous waste generated, manufactured, refined, transported, treated, stored, handled or disposed of at an industrial establishment.

(b) The owner or operator can obtain a de minimis quantity exemption if the following criteria are satisfied:

1. The total quantity of hazardous substances or hazardous wastes generated, manufactured, refined, transported, treated, stored, handled or disposed of at the subject industrial establishment at any one time during the owner's or operator's period of ownership or operation, does not exceed 500 pounds or 55 gallons;

2. If the hazardous substances or hazardous wastes are mixed with nonhazardous substances, then the total quantity of hazardous substances or hazardous wastes in the mixture at any one time during the owner's or

operator's period of ownership or operation, does not exceed 500 pounds or 55 gallons; and

3. The total quantity of hydraulic or lubricating oil, in the aggregate, does not exceed 220 gallons at any one time during the owner's or operator's period of ownership or operation.

(c) The total quantity of hazardous substances or hazardous wastes at an industrial establishment may be a combination of both (b)1 and 2 above; however, in the aggregate, the total quantity shall not exceed 500 pounds or 55 gallons.

(d) The total quantity of hazardous substances at an industrial establishment having the SIC number of 5122 shall not include any mixture containing hazardous substances if the mixture is in final product form for wholesale or retail distribution.

(e) The owner or operator of the subject industrial establishment that satisfies the criteria established in (b) above shall submit:

1. A completed de minimis quantity exemption application (see N.J.A.C. 7:26B-2.2(a)1 for application contents summary), certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5; and

2. Submit the applicable fee in accordance with N.J.A.C. 7:26B-8.

(f) The Department shall review the application in accordance with N.J.A.C. 7:26B-1.7. The owner or operator may close operations or transfer ownership or operation of an industrial establishment upon receipt of the Department's written approval of the de minimis quantity exemption application.

SUBCHAPTER 3. GENERAL INFORMATION NOTICE

7:26B-3.1 Prenotice filing conference

The Department shall, upon request of any owner or operator of an industrial establishment with an impending closing of operations or transfer of ownership or operations of an industrial establishment, meet with the owner or operator to discuss compliance with the provisions of ISRA and this chapter.

7:26B-3.2 Notification requirements

(a) An owner or operator planning to close operations or transfer ownership or operations of an industrial establishment shall submit a completed General Information Notice to the Department pursuant to N.J.A.C. 7:26B-3.3, within five calendar days after to the occurrence of any of the transactional events provided below:

1. The close of operations of an industrial establishment or the owner's or operator's public release of its decision to close operations, whichever occurs first;
2. The execution of an agreement by the owner or operator to transfer ownership or operations of the industrial establishment;
3. The signing of an agreement of sale, or the execution of a lease for a period of 99 years or longer, for the industrial establishment or the real property of the industrial establishment;
4. The effective time of corporate dissolution as specified at N.J.S.A. 14A:12-8, or upon the filing of a certificate of dissolution in the office of the Secretary of State, whichever occurs first;
5. The change in operations sufficient to change the primary SIC number of an industrial establishment from a primary SIC number that is subject to ISRA or this chapter to one that is not subject to ISRA or this chapter;
6. The exercise of an option to purchase an industrial establishment or the real property of an industrial establishment;
7. The acceptance of payment for the majority of stock in a corporation involving the direct owner or operator or indirect owner of the industrial establishment pursuant to a tender offer;
8. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, stock in a corporation or interest in a limited liability company, resulting in a merger or consolidation involving the direct owner or operator or indirect owner of the industrial establishment;
9. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, of more than 50 percent of the assets of an industrial

establishment within any five-year period as measured on a constant, annual date-specific basis;

10. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, stock in a corporation, of a partnership interest or interest in a limited liability company, resulting in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of the industrial establishment;

11. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, a partnership interest in a partnership that owns or operates an industrial establishment that would reduce, by ten percent or more, the assets available for remediation of the industrial establishment;

12. The transfer or execution of a trust to transfer an industrial establishment to a trust, whichever occurs first, except where grantor and beneficiary are identical or are members of the same family. Family includes the spouse, children, parents, siblings, grandparents, siblings of a parent, children of a sibling, or spouse of child of the grantor;

13. Receipt by the owner or operator of notice that the industrial establishment has become non-operational for health or safety reasons or by judicial proceeding or final agency action;

14. The appointment by a court of a receiver or liquidating trustee or execution of a deed of assignment for the benefit of creditors, in connection with dissolution (unless the event at (a)4 above has already occurred), liquidation or insolvency proceedings under statutory or common law as to the direct owner or operator or indirect owner of an industrial establishment; and

15. The following events in any bankruptcy proceeding:

i. The entry of an Order for Relief in bankruptcy pursuant to Chapter 7 of the United States Bankruptcy Code (11 U.S.C. §§ 701 et seq.);

ii. The filing of a plan of liquidation pursuant to Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 1101 et seq.); or

iii. Events covered by (a)1 through 15 above.

(b) The owner or operator shall remediate the industrial establishment in accordance with ISRA and this chapter, when the written notice in (a) above is required to be submitted.

7:26B-3.3 General information notice

(a) An owner or operator planning to close operations or transfer ownership or operations of an industrial establishment shall submit a completed General Information Notice pursuant to N.J.A.C. 7:26B-3.2(a), certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, acreage and geographic boundaries;
2. The tax block and lot numbers of the site;
3. The name, address, and telephone number of the current property owner;
4. The name, address and telephone number of the current business operator and/or business owner of the industrial establishment;
5. Identification and description of the transaction triggering ISRA;
6. Applicable SIC number(s) for the industrial establishment;
7. The date of public release of the closure decision and a copy of the appropriate public announcement, if any;
8. The date of execution of the agreement of transfer, sale or option to purchase and the name and address of the other parties to the transfer or sale, as applicable;
9. The proposed date for closing or transferring operations;
10. A schedule for submission to the Department of the preliminary assessment report, site investigation report, remedial investigation workplan, remedial investigation report, remedial action workplan, remedial action report, as applicable, and any other information required by this chapter, as follows:
 - i. A statement by the owner or operator of the industrial establishment that the owner or operator will comply with the remediation schedules provided at N.J.A.C. 7:26B-6.1, 6.2 and 6.3; or
 - ii. The submission of an alternative schedule for completion of remediation activities at the industrial establishment or at any area of concern, including a schedule for the submission of workplans and reports to the Department;
11. The name, address and telephone number of the authorized agent and the principal whom the authorized agent represents. The owner or operator shall notify the Department in writing, at the address provided at N.J.A.C. 7:26B-1.5, of any change of identity, address, or telephone number of the authorized agent. Where the Department is required by this chapter to notify or otherwise communicate with the person conducting the remediation of the site, written notice to or communication with the authorized agent by the Department shall be sufficient;
12. The applicable fees required pursuant to N.J.A.C. 7:26B-8.1;
13. Written authorization pursuant to N.J.A.C. 7:26B-1.9(a); and
14. Any additional information required by the Department from a specific owner or operator.

(b) Any person submitting a General Information Notice pursuant to (a) above may submit additional information, including any documentation, workplans and reports required pursuant to this chapter or N.J.A.C. 7:26E, along with the General Information Notice.

(c) The Department shall review the General Information Notice and shall respond in writing to the authorized agent as follows:

1. The Department has determined that the General Information Notice, including any specific applications submitted for the purpose of complying with ISRA, is administratively complete and:

i. The Department shall issue either a no further action letter or authorization letter in accordance with this subchapter; or

ii. The owner or operator of the industrial establishment is required to complete additional remediation, as specified prior to the Department's issuance of a no further action letter or authorization letter; or

2. The Department has determined that the General Information Notice is administratively incomplete and the person is required to correct any deficiencies or complete additional remediation activities, as specified.

7:26B-3.4 Revisions to the general information notice or withdrawal of required notice by an owner or operator

(a) An owner or operator may withdraw the notice required pursuant to N.J.A.C. 7:26B-3.2(a) if the owner or operator determines it is no longer necessary to obtain a no further action letter or authorization letter from the Department. Such withdrawal, stating the reason for the withdrawal, shall be made in writing and certified in accordance with N.J.A.C. 7:26B-1.6.

(b) An owner or operator submitting a general information notice shall notify the Department, in writing, of any changes, amendments or other necessary modifications to the information contained in the general information notice, within 30 calendar days of the person's discovery that the information provided to the Department in the person's original General Information Notice is incorrect, inaccurate or incomplete.

SUBCHAPTER 4. REMEDIATION AGREEMENT

7:26B-4.1 Remediation agreement

(a) An owner or operator requesting that the Department enter into a remediation agreement to allow the transfer of ownership or operations of the industrial establishment to occur prior to the Department's approval of a negative declaration or remedial action workplan for the industrial establishment shall submit a remediation agreement application to the Department at the address provided at N.J.A.C. 7:26B-1.5 which includes the following:

1. A completed general information notice pursuant to N.J.A.C. 7:26B-3.3, if not previously submitted;
2. A detailed description of the transaction;
3. Identification of the person(s) responsible for compliance with the remediation agreement, ISRA and this chapter;
4. A detailed cost estimate for remediation of the industrial establishment in accordance with N.J.A.C. 7:26C-7;
5. Identification of the type of remediation funding source(s) to be submitted in an amount equal to the cost estimate in (a)4 above, pursuant to the remediation funding source requirements of N.J.A.C. 7:26C-7;
6. The certifications by the owner, operator, transferee and/or lessee, as applicable, in accordance with N.J.A.C. 7:26B-1.6;
7. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1; and
8. Any additional information requested by the Department from a specific owner or operator.

(b) The Department shall send two original remediation agreements to the authorized agent within 14 calendar days after the Department's receipt of the information required pursuant to (a) above. The owner or operator of the industrial establishment or other authorized signatory shall sign both originals and return one executed original remediation agreement to the Department in accordance with the time schedule provided in the remediation agreement.

(c) The language for the remediation agreement shall conform to the language in the standard remediation agreement pursuant to Appendix A, incorporated herein by reference, to the greatest extent practicable, as determined by the Department.

7:26B-4.2 Remediation agreement amendment

(a) An owner or operator of an industrial establishment may request an amendment to the remediation agreement to allow a transfer of ownership or operations, subsequent to the transaction described in the remediation agreement, to occur prior to the Department's approval of a negative declaration or remedial action workplan for the industrial establishment.

(b) An owner or operator requesting an amendment to the remediation agreement pursuant to (a) above shall submit a remediation agreement application in accordance with N.J.A.C. 7:26B-4.1, to the Department at the address provided at N.J.A.C. 7:26B-1.5.

(c) The Department shall send two original remediation agreement amendments to the authorized agent within 14 calendar days after the Department's receipt of the information required pursuant to (b) above. The owner

or operator of the industrial establishment or other authorized signatory shall sign both originals and return one executed original remediation agreement amendment to the Department in accordance with the time schedule provided in the remediation agreement amendment.

SUBCHAPTER 5. EXPEDITED COMPLIANCE OPTIONS

7:26B-5.1 Expedited review

(a) An owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for an expedited review in accordance with (c) below.

(b) The Department's approval of an expedited review application authorizes the owner or operator of an industrial establishment that was previously remediated to close operations or transfer ownership or operations of the industrial establishment without further remediation when there has been no discharge subsequent to the last remediation or a subsequent discharge occurred and the subsequent discharge has been remediated and approved by the Department.

(c) To apply for an expedited review, the owner or operator shall submit a completed expedited review application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A certification by the owner or operator that:

- i. A remedial action workplan or equivalent plan, has previously been implemented and the Department has issued a no further action letter or equivalent approval for the industrial establishment;

- ii. The Department has approved a negative declaration for the industrial establishment; or

- iii. The Department or the United States Environmental Protection Agency has approved an equivalent remediation of the industrial establishment pursuant to ISRA, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. or any other applicable State or Federal law;

3. A certification by the owner or operator that:

i. The owner or operator has completed a preliminary assessment report and site investigation report, as applicable, at the industrial establishment in accordance with N.J.A.C. 7:26E, to identify areas of concern that are new or

have continued in use since the issuance of a no further action letter, negative declaration approval, or equivalent remediation approval; and

(1) Based on the preliminary assessment report and site investigation report referenced in (c)3i above, there has been no discharge of a hazardous substance or hazardous waste at the industrial establishment, subsequent to the issuance of the no further action letter or the equivalent approval; or

(2) Based on the preliminary assessment report and site investigation report referenced in (c)3i above, a discharge of a hazardous substance or hazardous waste at the industrial establishment has occurred subsequent to the issuance of the no further action letter, or the equivalent approval. The owner or operator shall identify the discharge(s), describe the action taken to remediate the discharge(s) and demonstrate that the remediation was approved by the Department;

4. A certification by the owner or operator of the industrial establishment, that for any underground storage tank system which is covered by the provisions of N.J.S.A. 58:10A-21 et seq., and N.J.A.C. 7:14B, the owner or operator is in compliance with the provisions of N.J.S.A. 58:10A-21 et seq., and N.J.A.C. 7:14B;

5. A copy of the most recent no further action letter, or other equivalent approval, as applicable, for the entire industrial establishment and/or a copy of the document evidencing the Department's approval as referenced in (a)3i(2) above;

6. A completed negative declaration in accordance with N.J.A.C. 7:26B-6.6;

7. Any additional information required by the Department from a specific owner or operator; and

8. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the expedited review application in accordance with N.J.A.C. 7:26B-1.7, and may perform a site inspection or require the owner or operator to submit the preliminary assessment report and/or site investigation report, if necessary. The owner or operator is not required to submit the preliminary assessment report and site investigation report unless the Department requests the submission of the reports in writing. The Department shall approve the expedited review application by the issuance of a no further action letter pursuant to N.J.A.C. 7:26B-1.8(a) or disapprove the expedited review application and require the owner or operator to remediate the industrial establishment in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

7:26B-5.2 Area of concern review

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for an area of concern review in accordance with (c) below, for any area(s) of concern at the industrial establishment for which a remediation has previously been conducted and approved by the Department.

(b) The Department's approval of an area of concern review application relieves the owner or operator from remediating each area of concern at the industrial establishment that was previously remediated and where there has not been any subsequent discharges at that area of concern.

(c) To apply for an area of concern review, the owner or operator shall submit a completed area of concern review application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A site map which identifies the area(s) of concern which is/are the subject of this area of concern review;

3. A certification by the owner or operator that the Department or the United States Environmental Protection Agency has approved an equivalent remediation at an area of concern pursuant to ISRA, the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or any other applicable State or Federal law;

4. A copy of the no further action letter or equivalent approval for that area of concern;

5. A certification by the owner or operator that:

- i. The owner or operator has completed a preliminary assessment report and site investigation report in accordance with N.J.A.C. 7:26E, as applicable, at each area of concern identified at (c)1 above; and

- (1) Based on the preliminary assessment report and site investigation report referenced in (c)5i above, there has been no discharge of a hazardous substance or hazardous waste at each subject area of concern subsequent to the issuance of the no further action letter or equivalent approval; or

- (2) Based on the preliminary assessment report and site investigation report referenced in (c)5i above, a discharge of a hazardous substance or

hazardous waste occurred at each subject area of concern subsequent to the issuance of the no further action letter or equivalent approval; and

6. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the area of concern review application in accordance with N.J.A.C. 7:26B-1.7, and may perform a site inspection or require the owner or operator to submit the preliminary assessment report and/or site investigation report, if necessary. The Department shall either approve the application by the issuance of a no further action letter for each area of concern identified at (c)1 above pursuant to N.J.A.C. 7:26B-1.8, or disapprove the application and require the owner or operator to remediate all areas of concern identified in (c)1 above, in accordance with ISRA and this chapter and N.J.A.C. 7:26E.

7:26B-5.3 Regulated underground storage tank waiver

(a) The owner or operator may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a regulated underground storage tank waiver in accordance with (c) below.

(b) The Department's approval of a regulated underground storage tank waiver application authorizes the owner or operator to close operations or transfer ownership or operations of an industrial establishment prior to obtaining approval of a remedial action workplan or a negative declaration or without the approval of a remediation agreement if the only areas of concern or the only discharges at the industrial establishment are from an underground storage tank or tanks regulated pursuant to N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B.

(c) To apply for a regulated underground storage tank waiver, the owner or operator shall submit a completed regulated underground storage tank waiver application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department, at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A preliminary assessment report that demonstrates that the only area of concern at the industrial establishment is an underground storage tank or tanks as defined pursuant to N.J.S.A. 58:10A-22 and N.J.A.C. 7:14B or a preliminary assessment and site investigation report which demonstrates that the only discharged hazardous substances or hazardous wastes at the industrial establishment or that has migrated offsite, above the applicable remediation standards, are from a discharge from that underground storage tank or tanks;

3. A certification by the owner or operator of the industrial establishment that the owner or operator is in compliance, pursuant to N.J.A.C. 7:26B-5.3(d), with the provisions of N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B for all underground storage tanks at the industrial establishment that are covered by that act; and

4. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The owner or operator shall be deemed in compliance with the provisions of N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B as it relates to the subject discharge of a hazardous substance or hazardous waste from an underground storage tank, if the owner or operator has been issued an order by, or has entered into an agreement with the Department to remediate that discharge and the owner or operator is in compliance with that order or agreement.

(e) The Department shall review the regulated underground storage tank waiver application in accordance with N.J.A.C. 7:26B-1.7, and shall either approve the application by the issuance of an authorization letter pursuant to N.J.A.C. 7:26B-1.8(c) or disapprove the application and require the owner or operator of the industrial establishment to remediate the industrial establishment in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

7:26B-5.4 Remediation in progress waiver

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a remediation in progress waiver in accordance with (c) below.

(b) The Department's approval of a remediation in progress waiver application authorizes the owner or operator to close operations or transfer ownership or operations of the industrial establishment prior to obtaining approval from the Department of a remedial action workplan, a negative declaration and without the approval of a remediation agreement.

(c) To apply for a remediation in progress waiver, the owner or operator shall submit a completed remediation in progress waiver application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. Evidence that establishes that the industrial establishment is already in the process of a remediation pursuant to ISRA, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or other applicable state laws and regulations, or the industrial establishment is currently in the process of an equivalent remediation pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. or any other applicable Federal law;

3. A certification by the owner or operator which includes the following:

- i. The owner or operator has completed a preliminary assessment report and site investigation report, as applicable, to identify areas of concern in accordance with N.J.A.C. 7:26E and based on the preliminary assessment report and site investigation report:

(1) There has been no discharge of any hazardous substance or hazardous waste during the owner's or operator's period of ownership or operation;

(2) A discharge of a hazardous substance or hazardous waste occurred during the owner's or operator's period of ownership or operation and the Department approved the remediation;

4. A certification by the owner or operator that any transferee of the industrial establishment has been notified that the industrial establishment is the subject of a remediation;

5. A certification by the owner or operator that:

i. A remediation funding source for the cost of the remediation at the industrial establishment has been established as required pursuant to N.J.A.C. 7:26C-7; or

ii. A financial assurance was established prior to June 16, 1993 and the amount of the financial assurance is consistent with the current cost estimate developed in accordance with N.J.A.C. 7:26E, for the remediation or the implementation of the remedial action workplan at the industrial establishment; and

6. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the application in accordance with N.J.A.C. 7:26B-1.7 and may perform a site inspection or require the owner or operator to submit the preliminary assessment report and/or site investigation report, if necessary. The owner or operator is not required to submit the preliminary assessment report and site investigation report unless the Department requests the submission of the reports in writing. The Department shall either approve the remediation in progress waiver application by the issuance of an authorization letter pursuant to N.J.A.C. 7:26B-1.8(c) or disapprove the application and require the owner or operator to remediate the industrial establishment in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

7:26B-5.5 Limited site review

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a limited site review in accordance with (c) below.

(b) The Department's approval of a limited site review application authorizes the owner or operator to remediate only those area(s) of concern at an industrial establishment where a discharge, subsequent to a prior remediation, has occurred.

(c) To apply for a limited site review, the owner or operator shall submit a completed limited site review application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;
2. A certification by the owner or operator that:
 - i. A remedial action has been previously implemented and the Department has issued a no further action letter;
 - ii. The Department has approved a negative declaration; or
 - iii. The Department or the United States Environmental Protection Agency has previously approved an equivalent remediation of the industrial establishment pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. or any other applicable law;
3. A certification by the owner or operator of the industrial establishment that the owner or operator has completed a preliminary assessment report and site investigation report, as applicable, at the industrial establishment in accordance with N.J.A.C. 7:26E, and that no other discharge of a hazardous substance or hazardous waste, that was not identified in (c)3i or ii below, has occurred at the industrial establishment; and
 - i. Based on the preliminary assessment report and site investigation report, a discharge has occurred at the industrial establishment subsequent to the issuance of the no further action letter or equivalent approval, and was not remediated in accordance with the procedures established by the Department; or
 - ii. Based on the preliminary assessment report and site investigation report, a discharge has occurred at the industrial establishment subsequent to the issuance of the no further action letter or equivalent approval and that any remediation performed by the owner or operator has not been approved by the Department; and

4. A certification by the owner or operator of the industrial establishment, that for any underground storage tank which is covered by the provisions of N.J.S.A. 58:10A-21 et seq., and N.J.A.C. 7:14B, the owner or operator is in compliance with the provisions of N.J.S.A. 58:10A-21 et seq., and N.J.A.C. 7:14B;

5. A copy of the most recent negative declaration, no further action letter, or other approval, as applicable, issued by the Department or federal agency for the industrial establishment;

6. A completed negative declaration in accordance with N.J.A.C. 7:26B-6.6, if applicable; and

7. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the limited site review application in accordance with N.J.A.C. 7:26B-1.7, and may perform a site inspection or require the owner or operator to submit the preliminary assessment report and/or site investigation report, if necessary. The owner or operator is not required to submit the preliminary assessment report and site investigation report unless the Department requests the submission of the reports in writing.

(e) The Department shall either approve or disapprove a limited site review application by the following actions:

1. Approve the limit site review application by the issuance of a no further action letter pursuant to N.J.A.C. 7:26B-1.8(a);

2. Approve the limited site review application and require the owner or operator of the industrial establishment to remediate each area of concern identified in (c)3 above, in accordance with ISRA and this chapter; or

3. Disapprove the limited site review application and require the owner or operator of the industrial establishment to remediate the industrial establishment in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

7:26B-5.6 Minimal environmental concern review

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a determination that a discharge at an industrial establishment is a minimal environmental concern in accordance with (c) below.

(b) The Department's approval of a minimal environmental concern application authorizes the owner or operator to close operations or transfer ownership or operations at an industrial establishment prior to obtaining approval of a remedial action workplan or without the approval of a remediation agreement by the Department. This section shall not be construed to allow an owner or operator to implement a remedial action involving the remediation of groundwater or surface water prior to the Department's approval of a remedial action workplan for the site.

(c) To apply for a minimal environmental concern determination, the owner or operator shall submit a completed minimal environmental concern application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A preliminary assessment report, site investigation report and remedial investigation report for the industrial establishment;

3. A certification by the owner or operator that based on the remediation completed, there are no more than two areas of concern at the industrial establishment that are contaminated at levels above the applicable remediation standards and the remedial action at those areas of concern can be completed pursuant to N.J.A.C. 7:26E and the applicable remediation standards within six months after the owner's or operator's receipt of the approval of the application by the Department;

4. Documentation establishing that the discharged hazardous substances or hazardous wastes at the industrial establishment do not pose an immediate threat to human health because of the proximity of an area of concern to a drinking water source or because of the location, complexity, or the nature of the discharge;

5. A certification by the owner or operator that a remedial action workplan shall be prepared pursuant to standards and criteria established by the Department at N.J.A.C. 7:26E and the remediation shall meet either the restricted use or unrestricted use soil remediation standards and the applicable surface water and groundwater remediation standards;

6. A certification, by the owner or operator that the remedial action workplan will be prepared, implemented and completed pursuant to standards and criteria established by the Department at N.J.A.C. 7:26E within six months after the owner's or operator's receipt of the approval of the application by the Department;

7. Evidence that a remediation funding source has been established in accordance with N.J.A.C. 7:26C-7; and

8. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the minimal environmental concern application in accordance with N.J.A.C. 7:26B-1.7 and may perform a site inspection of the industrial establishment, if necessary.

(e) Within 30 calendar days after the receipt of a complete application the Department shall either approve the minimal environmental concern application by the issuance of an authorization letter or disapprove the application and require the owner or operator to remediate the industrial establishment pursuant to ISRA and this chapter.

(f) Within six months after receipt of the Department's approval of the minimal environmental concern application, the owner or operator shall implement the remedial action at the industrial establishment and submit the remedial action report to the Department.

(g) The owner or operator shall notify the Department, in writing, at the address provided at N.J.A.C. 7:26B-1.5 prior to the expiration of the schedule established in (f) above, that the owner or operator can not implement the remedial action at the industrial establishment and submit the remedial action report to the Department. The owner or operator shall have no more than 120 calendar days in addition to the schedule established in (f) above, to implement the requirements of the remedial action and submit the remedial action report required by (f) above.

(h) The Department shall review the remedial action report above in accordance with N.J.A.C. 7:26B-1.7 and may perform a site inspection of the industrial establishment or at any area offsite.

(i) The Department shall either approve or disapprove the remediation of the industrial establishment and notify the owner or operator of its determination within 45 calendar days after receipt of the remedial action report. The Department shall approve the remediation by the issuance of a no further action letter in accordance with N.J.A.C. 7:26B-1.8(a), or may disapprove the remediation and require the owner or operator remediate the industrial establishment in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

(j) The Department may rescind its determination that the industrial establishment is a minimal environmental concern and rescind any letters issued pursuant to (e) above upon the failure of an owner or operator of the industrial establishment to implement the requirements of a remedial action workplan within the additional time provided (g) above, and require that a new remedial action workplan be submitted and implemented by the owner or operator in accordance with ISRA, this chapter and N.J.A.C. 7:26E.

7:26B-5.7 Limited conveyance

(a) The owner of an industrial establishment may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a certificate of limited conveyance in accordance with (c) below.

(b) The Department's approval of a certificate of limited conveyance authorizes the owner of an industrial establishment to transfer a portion of an industrial establishment upon the Department's issuance of a no further action letter or approval of a remedial action workplan or remediation agreement for the subject portion of the industrial establishment without the owner or operator conducting a remediation of the entire industrial establishment. The certificate of limited conveyance shall be valid for three years from the date of issuance.

(c) To apply for a certificate of limited conveyance, the owner or operator shall submit a completed limited conveyance application, certified in accordance with N.J.A.C. 7:26B-1.6; to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;
2. A site map of the industrial establishment that identifies the real property on which the industrial establishment is situated, and the portion of the real property subject to the proposed transfer and any areas conveyed pursuant to a prior certificate of limited conveyance;
3. A description of the real property to be transferred;
4. An appraisal of the entire industrial establishment, an appraisal of the real property to be transferred and an appraisal of the remaining real property if the certificate of limited conveyance were issued. The appraisals required by this section shall not be made more than one year prior to the submission of the application for a certificate of limited conveyance and shall be conducted by a designated Member, Appraisal Institute (American Institute of Real Estate Appraisers), Senior Real Estate Analyst (Society of Real Estate Appraisers), or Senior Member (American Society of Appraisers);
5. The sale price or fair market value of the real property to be transferred;
6. Any additional information the Department requests from a specific owner or operator;
7. Copies of all prior certificate(s) of limited conveyance if any, issued for the subject industrial establishment;
8. A copy of the sales agreement specifying the agreed upon price for the real property presently proposed for conveyance or, in the case of an

acquisition by a condemning authority where no agreement has been reached, an affidavit from the owner specifying the compensation, including any damages, sought by the owner and the current appraised value; and

9. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the information submitted pursuant to (c) above in accordance with N.J.A.C. 7:26B-1.7 and shall issue a certificate of limited conveyance for the real property on which an industrial establishment is situated after the Department deems the following criteria to be satisfied:

1. The sale price or fair market value of the real property to be conveyed, together with any additional diminution in value of the remaining property as a result of this transfer, is not more than one-third of the total appraised value of the real property of the industrial establishment prior to the transfer;

2. The remaining real property is an industrial establishment subject to the provisions of this chapter; and

3. Transfers or conveyances made pursuant to this section shall not exceed one-third of the value of the industrial establishment during the period of ownership of the applicant.

(e) Upon the Department's issuance of the certificate of limited conveyance, the owner or operator shall remediate the portion of the real property certified for transfer or conveyance prior to the transfer or conveyance. The remediation of the real property subject to the certificate of limited conveyance shall include any discharges from the remaining portion of the industrial establishment that have migrated or are migrating to the real property certified for conveyance.

(f) Upon the Department's disapproval of the limited conveyance application, the owner or operator shall remediate the industrial establishment in accordance with ISRA and this chapter.

(g) The owner or operator shall remediate the remaining portion of the industrial establishment, or otherwise comply with this chapter, upon the subsequent closing of operations or transferring of ownership or operations of the industrial establishment.

(h) An owner may, concurrent with or subsequent to a transfer or conveyance executed pursuant to this section, transfer additional portions of the industrial establishment in excess of the permissible conveyance limitation provided at (d)3 above, if the proposed transfer does not constitute a closing of operations or transfer of ownership or operations of an industrial establishment as defined at N.J.A.C. 7:26B-1.4.

(i) An owner who transfers additional portions pursuant to (h) above shall use the funds paid for those additional portions exclusively for remediating the additional portion(s) transferred pursuant to (h) above. The owner shall deposit any portion of the amount paid that remains unexpended in a remediation trust fund that shall be established pursuant to N.J.A.C. 7:26C-7 and N.J.S.A. 13:1K-11.8(g).

(j) Nothing in this section shall be construed to allow an owner to transfer any of the real property of an industrial establishment without complying with ISRA and this chapter for those portions subject to the transfer.

7:26B-5.8 Remedial action workplan deferral

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a remedial action workplan deferral in accordance with (c) below.

(b) The Department's approval of a remedial action workplan deferral application authorizes the owner or operator to transfer ownership or operations of the industrial establishment without the preparation, approval and implementation of a remedial action workplan for the industrial establishment.

(c) To apply for a remedial action workplan deferral, the owner or operator shall submit a completed remedial action workplan deferral application, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following information:

1. A certification signed by the purchaser, transferee, mortgagee or other party to the transfer that the industrial establishment would be subject to substantially the same use by the purchaser, transferee, mortgagee or other party to the transfer as established by the following criteria:

- i. Substantially the same use means that the industrial establishment shall retain the same three digit industry group number, as designated in the SIC Manual; or

- ii. An owner or operator may submit a written request to the Department at the address provided at N.J.A.C. 7:26B-1.5, for a determination that the industrial establishment be deemed subject to substantially the same use based upon its retention of the same two digit major group number, as designated in the SIC Manual. The owner or operator shall include the following information: the industrial establishment's current four digit SIC number, a description of the current operations of the industrial establishment, the proposed four digit SIC number for the industrial establishment after the proposed transfer and a description of the proposed operations at the industrial establishment after the proposed transfer;

2. The completed preliminary assessment report, site investigation report, and remedial investigation report for the industrial establishment;

3. A cost estimate for the remedial action necessary at the industrial establishment based upon the information collected in the preliminary assessment report, site investigation report, and remedial investigation report and developed in accordance with N.J.A.C. 7:26E;

4. A certification signed by the purchaser, transferee, mortgagee or other party to the transfer that the purchaser, transferee, mortgagee or other party to the transfer has reviewed preliminary assessment report, site investigation

report, and remedial investigation report and the cost estimate for the remedial action necessary at the industrial establishment and that the purchaser, transferee, mortgagee or other party to the transfer has the financial ability to pay for the implementation of the necessary remedial action; and

5. Payment of all applicable fees required pursuant to N.J.A.C. 7:26B-8.1.

(d) The Department shall review the remedial action workplan deferral application in accordance with N.J.A.C. 7:26B-1.7. The Department shall either approve the remedial action workplan deferral by the issuance of an authorization letter pursuant to N.J.A.C. 7:26B-1.8(c) or disapprove the application and require the owner or operator to submit a remedial action workplan for the industrial establishment.

(e) Upon approval of the deferral application by the Department, the preparation, approval, and implementation of a remedial action workplan for the industrial establishment may be deferred for that transfer provided in the notice required by (a) above, until the use changes or until the purchaser, transferee, mortgagee or other party to the transfer closes operations.

(f) The Department's approval of the remedial action workplan deferral application shall not be construed as an approval by the Department of any workplans and or reports submitted in accordance with (c)3 above.

SUBCHAPTER 6. REMEDIATION PROCEDURES

7:26B-6.1 Preliminary assessment, site investigation and remedial investigation

(a) Unless otherwise established pursuant to N.J.A.C. 7:26B-6.5, the owner or operator shall complete the remediation required by ISRA and this chapter and submit the reports certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, within the time schedules listed in (b) through (e) below, N.J.A.C. 7:26B-6.2 and 6.3.

(b) The owner or operator shall complete the preliminary assessment report in accordance with N.J.A.C. 7:26E-3.2 and submit a negative declaration, if applicable, within 35 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a).

(c) The owner or operator shall complete a site investigation report, if applicable, in accordance with N.J.A.C. 7:26E-3.13 and submit a negative declaration, if applicable, within 120 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a).

(d) The owner or operator shall complete a remedial investigation workplan, if applicable, in accordance with N.J.A.C. 7:26E-4.2 within 180 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a).

(e) The owner or operator shall complete the remedial investigation report in accordance with N.J.A.C. 7:26E-4.8 and submit a negative declaration, if applicable, within 300 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) or within 120 calendar days after the receipt of the Department's written approval of the remedial investigation workplan, whichever occurs last.

7:26B-6.2 Soil remedial action and remedial action workplan

(a) The owner or operator required to conduct a soil remedial action at the industrial establishment or at any area of concern shall not implement a remedial action prior to the Department's approval of a remedial action workplan for the site unless the soil remedial action satisfies the criteria established in (b) below.

(b) The owner or operator may implement a soil remedial action at an industrial establishment without prior Department approval of a remedial action workplan if the following criteria are satisfied:

1. The soil remedial action is reasonably expected to be completed, in compliance with N.J.A.C. 7:26E, within the time schedules established by the Department. Such remedial action shall not exceed the five years from the commencement of the implementation of the remedial action; and

2. The owner or operator is implementing a soil remedial action which achieves the established minimum unrestricted or restricted use soil remediation standards without the use of engineering controls, as applicable.

(c) The owner or operator planning to implement a soil remedial action in accordance with (b) above shall notify the Department, in writing, at the address provided at N.J.A.C. 7:26B-1.5, within 420 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) that includes the following information:

1. A certification that based on the remediation completed, there are no areas of concern at the industrial establishment or at any location where hazardous substances or hazardous wastes have migrated or are migrating from the industrial establishment involving the remediation of groundwater or surface water; and

2. A detailed schedule of implementation for the remedial action which includes a summary of the remediation performed to date, the status of the remediation of each area of concern, the proposed remedial actions to be conducted at each area of concern and the time schedules for the completion of proposed activities. This information may include both narrative and/or graphic descriptions and shall only be used for the purposes of establishing a time schedule pursuant to this subsection.

(d) The notification required by (c) above shall be certified in accordance with N.J.A.C. 7:26B-1.6.

(e) The notification required by (c) above shall satisfy the requirement of N.J.A.C. 7:26E-1.4 to notify the Department. The owner or operator shall notify any other person as required pursuant to N.J.A.C. 7:26E-1.4.

(f) The Department may require an owner or operator planning to implement a soil remedial action in accordance with (b) above to submit progress reports on a quarterly, semi-annual or annual basis. The owner or operator is not required to submit the progress reports unless the Department requests the submission of the reports in writing.

(g) The owner or operator required to conduct a soil remedial action that does not satisfy the criteria established in (b) above shall submit a remedial action workplan to the Department for review and approval within 420 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) or within 120 calendar days after receipt of the Department's written approval of the remedial investigation report submitted pursuant to N.J.A.C. 7:26B-6.1(d), whichever occurs last.

7:26B-6.3 Groundwater or surface water remedial action workplan

The owner or operator shall submit the remedial action workplan for any remedial action involving the remediation of groundwater or surface water for review and approval by the Department within 420 calendar days after the date the submission of written notice is required pursuant to N.J.A.C. 7:26B-3.2(a) or within 120 calendar days after receipt of the Department's written approval of the remedial investigation report submitted pursuant to N.J.A.C. 7:26B-6.1(d), whichever occurs last.

7:26B-6.4 Remediation funding source requirement

The owner or operator shall submit a remediation funding source in accordance with N.J.A.C. 7:26C-7 upon the Department's approval of a remedial action workplan for the industrial establishment.

7:26B-6.5 Compliance with remediation schedules

(a) The owner or operator required to remediate an industrial establishment or any area of concern shall comply with:

1. The schedules established at N.J.A.C. 7:26B-6.1, 6.2 and 6.3;
2. The alternative schedule of implementation submitted with the General Information Notice as provided at N.J.A.C. 7:26B-3.3(a)10; or
3. The schedule established in a remediation agreement in accordance with N.J.A.C. 7:26B-4.

(b) The owner or operator required to remediate an industrial establishment or any area of concern shall provide written notice to the Department at the address provided at N.J.A.C. 7:26B-1.5, at least 15 calendar days prior to the date of expected noncompliance upon the owner's or operator's finding that the

remediation of the industrial establishment will not conform to the schedules established at (a) above. The notification shall include the following information:

1. A summary of remediation completed to date and the status of each area of concern;
2. The proposed remediation pursuant to N.J.A.C. 7:26E, to be conducted at each area of concern and the revised schedule of for the completion of proposed remediation; and
3. Any additional information which is relevant to the Department's evaluation of the proposed remediation schedule.

7:26B-6.6 Completion of remediation

Upon completion of the remediation, the owner or operator shall submit to the Department the workplans for and reports of the preliminary assessment, site investigation, remedial investigation and remedial action, as applicable, and any additional information required by the Department that has not been previously submitted to the Department for review and approval.

7:26B-6.7 Submission and review of a negative declaration

(a) Unless otherwise provided by this chapter, the owner or operator, subsequent to closing operations, or the public release of its decision to close operations, or prior to transferring ownership or operations of the industrial establishment, shall submit a negative declaration, executed and certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5. The Department shall approve a negative declaration by the issuing a no further action letter.

(b) The owner or operator shall submit a negative declaration pursuant to (c) below upon the occurrence of any of the following events:

1. The submission of a preliminary assessment report, site investigation report, remedial investigation report or remedial action report, as applicable, which demonstrates the following:
 - i. There are no discharged hazardous substances or hazardous wastes at the industrial establishment; or
 - ii. Any discharged hazardous substances or hazardous wastes at the industrial establishment above the applicable remediation standards have been remediated in accordance with N.J.A.C. 7:26E, and any applicable remediation standards and the remediation has been approved by the Department; and any discharged hazardous substances or hazardous wastes that have migrated or are migrating from the industrial establishment above the applicable remediation standards have been remediated in compliance with N.J.A.C. 7:26E, and any applicable remediation standards and the remediation has been approved by the Department;

2. The receipt by the owner or operator of notification from the Department that based on the Department's review of the information submitted, the owner or operator shall submit a negative declaration; or

3. The owner or operator is required pursuant to N.J.A.C. 7:26B-5 to submit a negative declaration.

(c) The owner or operator required to submit a negative declaration pursuant to this chapter shall submit the negative declaration on forms available from the Department at the address provided at N.J.A.C. 7:26B-1.5. The owner or operator shall include the following information in the negative declaration:

1. Identification of the subject industrial establishment including:

i. The name and location of the industrial establishment, including street address, city or town, municipality, county, zip code and telephone number;

ii. The tax block and lot numbers of the industrial establishment;

iii. The applicable SIC number of the subject industrial establishment;

iv. The current real property owner, including name, address, and telephone number; and

v. The current business operator and/or business owner, if different from (c)1i above, of the industrial establishment including name, address and telephone number;

2. The preliminary assessment report, site investigation report, remedial investigation workplan, remedial investigation report, remedial action workplan, as applicable, and any other information required by the Department if not previously submitted, to review the proposed negative declaration; and

3. A certification by the owner or operator that there has been no discharge of hazardous substances or hazardous wastes on the industrial establishment, or that any such discharge on the industrial establishment or discharge that has migrated or is migrating from the industrial establishment has been remediated in accordance with procedures approved by the Department and in accordance with any applicable remediation standards.

(d) The owner or operator shall certify the negative declaration in accordance with the provisions at N.J.A.C. 7:26B-1.6.

(e) The owner or operator shall pay all applicable fees required pursuant to N.J.A.C. 7:26B-8.

(f) The Department shall review a negative declaration within 45 calendar days after the completion of the Department's review of all the information submitted pursuant to this chapter and shall:

1. Approve the remediation for that industrial establishment by the issuance of a no further action letter pursuant to N.J.A.C. 7:26B-1.8(a); or

2. Inform the owner or operator that additional remediation at the industrial establishment or at an offsite location is required.

SUBCHAPTER 7. PROTECTION OF CONFIDENTIAL INFORMATION

7:26B-7.1 Confidentiality claims

(a) Any person required to submit any information pursuant to this chapter which in the person's opinion constitutes trade secrets, proprietary information, specific information regarding an ISRA-subject transaction other than the fact that the ISRA-subject transaction has occurred and the general nature of such transaction, or information related to national security, may assert a confidentiality claim by following the procedures set forth in this subchapter and by paying the appropriate fee pursuant to N.J.A.C. 7:26B-8.1.

(b) Any person asserting a confidentiality claim pursuant to (a) above shall submit two documents to the Department. One document shall be intact including any information which the person alleges to be entitled to confidential treatment. The second document shall be identical to the first and may be a copy of the first except that the alleged confidential material shall be redacted.

(c) The top of each page of the first submission containing the information which the person alleges to be entitled to confidential treatment shall display the heading "CONFIDENTIAL" in bold type, or stamp.

(d) All parts of the text of the first submission which the person alleges to be entitled to confidential treatment shall be underscored or highlighted in a clearly identifiable manner. This manner of marking confidential information shall be such that both the allegedly confidential information and the underscoring or highlighting is reproducible on photocopying machines.

(e) The first submission, containing the information which the person alleges to be entitled to confidential treatment, shall be sealed in an envelope which shall display the word "CONFIDENTIAL" in bold type or stamp on both sides. This envelope, together with the second, redacted submission (which may or may not be enclosed in a separate envelope, at the option of the person), shall be enclosed in another envelope for transmittal to the Department. The outer envelope shall bear no marking indicating the confidential nature of the contents.

(f) To ensure proper delivery, a person shall send the complete package by certified mail, return receipt requested and if necessary hand delivery, at the address specified at N.J.A.C. 7:26B-1.5. The Department will assume no responsibility for packages until they are received.

7:26B-7.2 Access to information; nondisclosure

(a) Until such time as a final confidentiality determination has been made, access to any information for which a confidentiality claim has been made shall be

limited to Department employees, representatives, and contractors, whose activities necessitate such access and as provided by N.J.A.C. 7:26B-7.5 and 7.6.

(b) No disclosure of information for which a confidentiality claim has been asserted shall be made to any other person except as provided in this subchapter or as otherwise required by law.

7:26B-7.3 Confidentiality determinations

(a) The Department shall determine that documents, in whole or in part, are subject to confidential treatment based on the following criteria:

1. Whether a person has asserted a confidentiality claim pursuant to this subchapter which has not expired by its terms, been waived or withdrawn;
2. Whether a person has shown that reasonable measures were been taken to protect the confidentiality of the information and that the person intends to continue to take such measures;
3. Whether the information is not, and has not been, available or otherwise disclosed to any other person without the consent of the person asserting a confidentiality claim (other than by subpoena or by discovery based on a showing of special need in a judicial or quasi-judicial proceeding, as long as the information has not become available to persons not involved in the proceeding);
4. No statute or regulation specifically requires disclosure of the information; and
5. Except for information related to national security, whether the person has shown that disclosure of the information would be likely to cause substantial damage to its competitive position.

(b) The Department shall treat documents for which a confidentiality claim has been asserted as entitled to confidential treatment until the Department acts upon a confidentiality claim and determines otherwise. The Department shall act upon a confidentiality claim and determine whether information is or is not entitled to confidential treatment whenever the Department:

1. Receives a request under N.J.S.A. 47:1A-1 et seq., to inspect or copy such information;
2. Deems it necessary to determine whether information in its possession is entitled to confidential treatment; or
3. Determines for any reason in the public interest to disclose the information to persons not authorized by this subchapter to have access to confidential information.

(c) The Department shall make the determination whether information is or is not entitled to confidential treatment. Within 30 calendar days after its determination that the information is not entitled to confidential treatment, the

Department shall send written notification outlining the reasons for its determination, by certified mail, return receipt requested, to the person who submitted the information and the information shall become part of the Department's public files unless contested pursuant to (d) below.

(d) A person who wishes to contest a determination by the Department that the information submitted is not entitled to confidential treatment shall, within 30 calendar days after receipt of the Department's written notification, submit evidence to support the person's contention that the Department's initial determination was incorrect. The evidence may include, but need not be limited to, a statement indicating:

1. The period of time for which confidential treatment is desired by the person (for example, until a certain date, until the occurrence of a specified event, or permanently);
2. The measures taken by the person to guard against undesired disclosure of the information to others;
3. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith; and
4. The extent to which disclosure of the information would result in substantial damage to the person, including a description of the damage, an explanation of why the damage would be substantial, and an explanation of the nexus between disclosure and the damage;

(e) Failure of the person to furnish timely comments or exceptions pursuant to (d) above waives the person's confidentiality claim.

(f) A person may submit a written request for an extension to contest the Department's determination pursuant to (d) above. The Department may extend the time limit for submitting comments pursuant to (d) above for good cause.

(g) The Department shall review the evidence and:

1. To the extent that the Department determines that the information submitted is not entitled to confidential treatment, the Department shall send written notification of this determination to the person by certified mail, return receipt requested. The notice shall state the basis for the determination and that the Department shall make the information available to the public on the 14 calendar days after receipt by the person of the written notice; or
2. To the extent that the Department determines that the information submitted is entitled to confidential treatment, the information shall not be disclosed, except as otherwise provided by this subchapter. The Department shall send written notification of this determination to the person by certified mail, return receipt requested.

7:26B-7.4 Disclosure of confidential information to other public agencies

(a) The Department may disclose confidential information to persons other than Department employees, representatives, and contractors only as provided in (b) below or N.J.A.C. 7:26B-7.6.

(b) The Department may disclose confidential information to another state agency or to a Federal agency if:

1. The Department is required by law to disclose the information;
2. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;
3. The request sets forth the official purpose for which the information is needed;
4. The Department notifies the other agency of the Department's determination that the information is entitled to confidential treatment, or of any unresolved confidentiality claim covering the information;
5. The other state or Federal agency has first furnished to the Department a written legal opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department to disclose such information to the other agency;
6. The other agency has obtained the written consent of the affected person to the proposed disclosure; and
7. The other agency has adopted regulations or operates under statutory authority that will allow it to preserve confidential information from unauthorized disclosure.

7:26B-7.5 Disclosure of confidential information to contractors

(a) The Department may disclose confidential information to a contractor of the Department if the contract in question provides that the contractor and the contractor's employees, agents and representatives shall use the information only for the purpose of carrying out the work required by the contract, shall not disclose the information to anyone the Department has not authorized in writing, shall store the information in locked cabinets in secure rooms, and shall return to the Department all copies of the information, and any abstracts or extracts therefrom, upon request by the Department or whenever the information is no longer required by the contractor for the performance of the work required by the contract.

(b) Within 30 calendar days after the disclosure of the information, the Department shall notify in writing the person who supplied the confidential information of:

1. Its disclosure to its contractors;
2. The date on which disclosure was made;

3. The name of the contractor to which disclosure was made; and

4. A description of the information disclosed.

(c) Disclosure in violation of this subchapter or the contractual provisions described in (b) above shall constitute grounds for debarment or suspension as provided in N.J.A.C. 7:1-5, Debarment, Suspension and Disqualification from Department Contracting, in addition to whatever other remedies may be available to the Department at equity or law.

7:26B-7.6 Imminent and substantial danger

(a) Upon a finding that disclosure of confidential information would serve to alleviate an immediate and substantial danger to the public health and safety or the environment, the Department may disclose confidential information to any person whose role in alleviating the danger to public health and safety or the environment necessitates that disclosure. Any such disclosure shall be limited to information necessary to enable the person to whom it is disclosed to carry out the activities in addressing the danger.

(b) Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim, nor shall the disclosure of itself be grounds for any determination that information is no longer entitled to confidential treatment.

(c) Within 30 calendar days after the disclosure of the information, the Department shall notify in writing the person who supplied the confidential information of:

1. Its disclosure;

2. The date on which disclosure was made;

3. The name of the person to which disclosure was made; and

4. A description of the information disclosed.

7:26B-7.7 Security procedures

(a) Submissions to the Department pursuant to this chapter will be opened only by persons authorized by the Department engaged in administering this chapter.

(b) Only those Department employees whose activities necessitate access to information for which a confidentiality claim has been made, shall open any envelope which is marked "CONFIDENTIAL" and is addressed as provided at N.J.A.C. 7:26B-1.5.

(c) The Department shall store all submissions entitled to confidential treatment as determined at N.J.A.C. 7:26B-7.3 in locked cabinets.

(d) Any record made or maintained by Department employees, representatives, or contractors which contains confidential information shall contain appropriate indicators identifying the confidential information.

SUBCHAPTER 8. FEE SCHEDULE AND DIRECT BILLING FEES

7:26B-8.1 Fee schedule

(a) Except as provided below, the owner or operator shall pay all applicable fees required by this section in accordance N.J.A.C. 7:26B-8.4, upon submittal to the Department of each and every request, application or submission listed below.

1. Applicability determination application	\$ 200.00
2. Area of concern waiver application*	200.00
3. Confidentiality claim	250.00
4. De minimis quantity exemption application	200.00
5. Expedited review application*	250.00
6. General Information Notice	100.00
7. Limited site review application*	450.00
8. Limited conveyance application*	500.00
9. Negative declaration review	100.00
10. Preliminary assessment report	250.00
11. Regulated underground storage tank waiver application*	500.00
12. Remedial action workplan deferral application*	750.00
13. Remediation agreement application	1,000.00
14. Remediation agreement amendment application	500.00
15. Remediation in progress waiver application*	250.00
16. Site investigation report	500.00

* This fee includes the costs of the Department's review of the General Information Notice required pursuant to N.J.A.C. 7:26B-3.2(a). Any person submitting this fee shall not be required to submit a separate General Information Notice fee.

(b) The applicable fees required by (a) above are nonrefundable.

(c) The fees required by (a) above are not one time fees but rather the fees required to perform the review of each specific submittal to the Department.

(d) Any fees required pursuant to (a) above that are subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

7:26B-8.2 Oversight costs

The owner or operator conducting the remediation of an industrial establishment pursuant to ISRA and this chapter shall submit payment to the Department pursuant to the provisions found in the rules for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C-9.3 and submit payment pursuant to N.J.A.C. 7:26-9.5.

7:26B-8.3 Oversight cost review

To contest an oversight cost calculated pursuant to the rules for Department Oversight of the Remediation of Contaminated Sites at N.J.A.C. 7:26C-9.3, the contestor shall follow the procedures found in N.J.A.C. 7:26C-9.4.

7:26B-8.4 Payment of fees

All fees required by this subchapter shall be made by certified check, attorney check, money order, or by personal check shall be made payable to "Treasurer, State of New Jersey." Unless otherwise authorized by the Department, all fees shall be mailed to New Jersey Department of Environmental Protection, Division of Responsible Party Site Remediation, 401 E. State Street, PO Box 028, Trenton, New Jersey 08625-0028. Courier and hand deliveries may be made to 401 East State Street, 5th Floor, Trenton, New Jersey.

APPENDIX A

STANDARD ISRA REMEDIATION AGREEMENT

The standard ISRA remediation agreement contains references to [Person], [amount], and other blank brackets []. Upon the Department's issuance or entry of remediation agreement, the Department will replace these terms and blank spaces with the appropriate information for that specific oversight document.

Matter bracketed [] is not intended for deletion, but rather is intended to be descriptive of the variable information that may be contained in the final document.

IN THE MATTER OF _____ :

THE [Name of the site] SITE : REMEDIATION

AND [Name of operator] : AGREEMENT

AND [Name of owner] :

ISRA Case #[]

This Remediation Agreement is issued and entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection, (hereinafter the "NJDEP") by N.J.S.A. 13:1D-1 et. seq., and the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et. seq., and duly delegated to the Assistant Director for the Industrial Site Evaluation Element within the Division of Responsible Party Site Remediation pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The property that is the subject of this Remediation Agreement is operated by [full name of the direct owner] and owned by [full name of current property owner], and is located at [address] and is designated as Block [], Lot [] on the tax maps of the [Township, Borough, City. etc.] of [], [] County, New Jersey (hereinafter the "[]" or "Site"). The Standard Industrial Classification ("SIC") numbers which best describe the operations at the [] industrial establishment are []. [Paragraph 1 will be repeated as 1.A, 1.B, etc. for each industrial establishment subject to this Remediation Agreement]

2. On [date], [Corporation/entity/individual] submitted to NJDEP an application for a Remediation Agreement pursuant to N.J.A.C. 7:26B-4.1. This Remediation Agreement application is incorporated herein by reference and includes the following information:

A. Transaction

Seller: []

Buyer: []

Description: []

B. Person(s) executing this Remediation Agreement and responsible for conducting the remediation of the [] industrial establishment. (hereinafter referred to as "Responsible Person(s)").

Lead Responsible Person:

Name: []

Business Association: []

Address: []

Telephone No. [() -] Fax No. [() -]

Responsible Person: [Any other Person(s)]

Name: []

Business Association: []

Address: []

Telephone No. [() -] Fax No. [() -]

3. NJDEP and the [Responsible Person(s)] expressly agree that the terms and conditions of this Remediation Agreement shall apply separately to each of the industrial establishments listed in Paragraph 1 above. Furthermore, NJDEP and the [Responsible Person(s)] agree to administer and complete all applicable ISRA program requirements, including the remediation funding source requirements and any other remedial measures undertaken pursuant to this Remediation Agreement and ISRA, for the industrial establishment.

4. The transaction described in Paragraph 2.A above is the transfer of ownership or operations of an industrial establishment as defined by ISRA. NJDEP and [Responsible Person(s)] expressly agree that the transaction described in Paragraph 2.A above is subject to ISRA. [Responsible Person(s)] has requested that NJDEP prepare a Remediation Agreement which, when effective, will allow the transaction described in Paragraph 2.A above to be consummated prior to the completion of all administrative and remediation requirements pursuant to ISRA.

5. By entering into this Remediation Agreement, [Responsible Person(s)] neither admits to any fact, fault or liability under any statute or regulation concerning the condition of the Site [if applicable] nor waives any rights or defenses with regard to the site except as specifically provided in this Remediation Agreement.

6. [OPTIONAL--[Responsible Person(s)] shall submit to NJDEP a certified check made payable to the "Treasurer, State of New Jersey" for \$[].00, no later than [Responsible Person(s)] execution and submittal to NJDEP of the

Remediation Agreement. NJDEP's acceptance of the penalty shall not be construed as a waiver of NJDEP's right to compel [Responsible Person(s)] to specifically perform their obligations under this Remediation Agreement.]

7. [Additional provisions may be added at the NJDEP's discretion with the agreement of [Responsible Person(s)]].

AGREEMENT

I. Remediation

1. [Responsible Person(s)] agrees to remediate the [] industrial establishment and to submit the following documents as established below:

A. Within [()] calendar days after the NJDEP's receipt of the General Information Notice (GIN) or such additional time as authorized by NJDEP, [Responsible Person(s)] shall submit a preliminary assessment report, site investigation report, and remedial investigation workplan, as applicable, prepared in accordance with N.J.A.C. 7:26E or [Responsible Person(s)] shall submit a Negative Declaration for the [] industrial establishment.

B. Within [()] calendar days after the NJDEP's receipt of the General Information Notice (GIN) or within [()] calendar days from receipt of NJDEP's written approval of the Remedial Investigation Workplan or longer as authorized by NJDEP, [Responsible Person(s)] shall submit a Remedial Investigation Report in accordance with N.J.A.C. 7:26E or [Responsible Person(s)] shall submit a Negative Declaration for the [] industrial establishment.

C. Within [()] calendar days after the NJDEP's receipt of the General Information Notice (GIN) or within [()] calendar days from receipt of NJDEP's written approval of the Remedial Investigation Report or longer as authorized by NJDEP, [Responsible Person(s)] shall submit a Remedial Action Workplan as applicable, prepared in accordance with N.J.A.C. 7:26E or [Responsible Person(s)] shall submit a Negative Declaration for the [] industrial establishment.

D. The NJDEP will review all documents in accordance with N.J.A.C. 7:26B and N.J.A.C. 7:26E.

2. If NJDEP determines any submittal made under this section is inadequate or incomplete, the NJDEP shall provide [Responsible Person(s)] with written notification of each deficiency, and [Responsible Person(s)] shall revise and resubmit the required information within thirty (30) calendar days or longer as authorized by NJDEP from receipt of such notification.

3. If the NJDEP determines that no further action is required at the [] industrial establishment, [Responsible Person(s)] shall submit a negative declaration, in accordance with N.J.A.C. 7:26B-6.6, within thirty (30) calendar days or longer as authorized by NJDEP from receipt of the NJDEP's request for the submission of the negative declaration.

4. Nothing in this Remediation Agreement shall be construed to limit, restrict or prohibit any person(s) responsible for conducting the remediation of the [] industrial establishment from implementing any applicable ISRA compliance options in accordance with N.J.A.C. 7:26B-5 to satisfy the requirements of ISRA.

5. If at any time that this Remediation Agreement is in effect the NJDEP determines that the requirements of N.J.A.C. 7:26E are not being achieved or that additional remediation is required to protect the public health and safety or the environment, [Responsible Person(s)] shall conduct such additional remediation as the NJDEP directs.

6. The NJDEP will consider a request for an extension of time to perform any requirement under this Remediation Agreement, provided that any extension request is submitted to the NJDEP fourteen (14) calendar days prior to any applicable deadline to which the extension request refers.

II. Remediation Funding Source

7. [Responsible Person(s)] shall establish and maintain a remediation funding source in a form pursuant to N.J.A.C. 7:26C-7 in the amount of \$[.00]. If [Responsible Person(s)] chooses and the Department approves in writing an innovative remedial action technology, unrestricted use or a limited restricted use remedial action for all or part of the remedial action, [Person] is not required to maintain a remediation funding source for the cost of implementing the innovative remedial action technology, unrestricted use or limited restricted use remedial action.

8. Upon submission of the remediation funding source and annually thereafter, [Responsible Person(s)] shall submit a remediation funding source surcharge payment in an amount equal to one percent of the required amount of the remediation funding source. [Responsible Person(s)] shall submit to the NJDEP a cashier's or certified check payable to the "New Jersey Economic Development Authority" for the full amount of the remediation funding source surcharge. No surcharge is due on the amount of the remediation funding source established as self-guarantee or the amount of the remediation funding source that is established by financial assistance or a grant from the Hazardous Discharge Site Remediation Fund.

9. Whenever the remediation cost increases, [Responsible Person(s)] shall cause the amount of the remediation funding source to be increased to an amount at least equal to the new estimate within thirty (30) calendar days.

10. Whenever the remediation cost decreases, [Responsible Person(s)] may file a written request to NJDEP to decrease the amount in the remediation funding source. If NJDEP approves, [Responsible Person(s)] may decrease the remediation funding source upon receipt of NJDEP's written approval to the person who established the remediation funding source and to the person or institution providing the remediation funding source.

11. NJDEP shall return the remediation funding source established upon [Responsible Person(s)] submission of a substitute remediation funding source or upon NJDEP's issuance of a no further action letter for the [] industrial establishment.

12. In the event that NJDEP determines that [Responsible Person(s)] has failed to perform any of its obligations under this Remediation Agreement or ISRA, NJDEP shall notify the [Responsible Person(s)] in writing of the obligation(s) with which it has not complied and [Responsible Person(s)] shall revise and resubmit the required information within a reasonable period of time not to exceed thirty (30) calendar days or longer as authorized by NJDEP from receipt of such notification. If [Responsible Person(s)] fails to revise and resubmit the required information the schedule established above, NJDEP may perform the remediation in place of [Responsible Person(s)] making disbursements from the remediation funding source and may pursue any additional rights and remedies in accordance with N.J.S.A. 58:10B-3(g). Nothing in this paragraph shall prevent NJDEP from seeking civil or civil administrative penalties, costs and damages or any other legal or equitable relief against [Responsible Person(s)].

III. Project Coordination

13. Within seven (7) calendar days after the effective date of this Remediation Agreement, [Responsible Person(s)] shall submit to the NJDEP the name, title, address and telephone number of the individual who shall be [Responsible Person]'s technical contact for the NJDEP for all matters concerning this Remediation Agreement and [Responsible Person(s)] shall designate an agent for the purpose of service for all matters concerning this Remediation Agreement and shall provide the NJDEP with the agent's name and address.

14. Unless otherwise directed by NJDEP, any submission to be made to NJDEP in accordance with this Remediation Agreement and ISRA shall be directed to:

[Assistant Director]

Division of Responsible Party Site Remediation

401 East State Street

PO Box 028

Trenton, NJ 08625-0028

IV. Oversight Cost Reimbursement

15. All submissions required pursuant to this Remediation Agreement shall be accompanied by all appropriate fees pursuant to N.J.A.C. 7:26B-8.

16. Within thirty (30) calendar days after receipt from the NJDEP of a written summary, conforming to N.J.A.C. 7:26B-8.2, of the NJDEP's oversight costs, including all accrued interest incurred pursuant to the paragraph below,

determined pursuant to N.J.A.C. 7:26B-8, [Responsible Person(s)] shall submit to the NJDEP a cashier's or certified check payable to the "Treasurer, State of New Jersey" and submitted with DEP Form 062A in accordance with N.J.A.C. 7:26B-8.4, for the full amount of the NJDEP's oversight costs. Nothing contained in the paragraph shall be construed to limit or restrict any person's ability to contest any oversight costs calculated pursuant to N.J.A.C. 7:26B-8.2 in accordance with the oversight cost review procedures at N.J.A.C. 7:26B-8.3.

17. Interest shall accrue on the unpaid balance of oversight costs, beginning at the end of the thirty (30) calendar day period established in the preceding paragraph, at the rate established by Rule 4:42 of the current edition of the Rules Governing the Courts of the State of New Jersey.

V. Force Majeure

18. If any event specified in the following paragraph occurs which [Responsible Person] believes or should believe will or may cause delay in the compliance or cause non-compliance with any provision of this Remediation Agreement, [Responsible Person] shall notify the NJDEP in writing within seven (7) calendar days of the start of delay or knowledge of the anticipated delay, as appropriate, referencing this paragraph and describing the anticipated length of the delay, the precise cause or causes of the delay, any measures taken or to be taken to minimize the delay, and the time required to take any such measures to minimize the delay. [Responsible Person] shall take all necessary action to prevent or minimize any such delay.

19. The NJDEP will extend in writing the time for compliance for a period no longer than the delay resulting from such circumstances as determined by the NJDEP only if:

- (a) [Responsible Person] has complied with the notice requirements of the preceding paragraph;
- (b) Any delay or anticipated delay has been or will be caused by fire, flood, riot, strike or other circumstances beyond the control of [Responsible Person]; and
- (c) [Responsible Person] has taken all necessary action to prevent or minimize any such delay.

20. The burden of proving that any delay is caused by circumstances beyond the control of [Responsible Person] and the length of any such delay attributable to those circumstances shall rest with [Responsible Person].

21. "Force Majeure" shall not include the following:

- (a) Delay in an interim requirement with respect to the attainment of subsequent requirements;
- (b) Increases in the cost or expenses incurred by [Responsible Person] in fulfilling the requirements of this Remediation Agreement;

(c) Contractor's breach, unless [Responsible Person] demonstrates that such breach falls within paragraph 19 above; and

(d) Failure to obtain access required to implement this Remediation Agreement, unless denied by a court of competent jurisdiction.

VI. Reservation of Rights

22. By entering into this Remediation Agreement, the NJDEP does not waive its right to seek, assess or collect civil or civil administrative penalties or any other legal or equitable relief against [Responsible Person(s)] for past, present and future violations by [Responsible Person(s)] of any New Jersey environmental statutes or regulations.

23. The NJDEP reserves the right to require [Responsible Person(s)] to take or arrange for the taking of any and all additional measures if the NJDEP determines that such actions are necessary to protect human health or the environment.

24. [Responsible Person(s)] admits that it has agreed to comply with the terms of this Remediation Agreement. Neither the entry into this Remediation Agreement nor the conduct of [Responsible Person(s)] hereunder, shall be construed as any admission of fact, fault or liability by the [Responsible Person(s)] under any applicable laws or regulations.

25. Except as otherwise set forth herein, by the execution of this Remediation Agreement the NJDEP does not release any person, including without limitation, [] from any liabilities or obligations such person may have pursuant to ISRA and the ISRA regulations, or any other applicable authority, nor does the NJDEP waive any of its rights or remedies pursuant thereto.

VII. General Provisions

26. No modification or waiver of this Remediation Agreement shall be valid except by written amendment to this Remediation Agreement duly executed by [Responsible Person(s)] and the NJDEP. Any amendment to this Remediation Agreement shall be executed by the NJDEP and [Responsible Person(s)]. The NJDEP reserves the right to require the resolution of any outstanding violations ISRA or this Remediation Agreement prior to executing any such amendment.

27. This Remediation Agreement shall be binding, jointly and severally, on each signatory, its successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity. No change in the ownership or corporate status of any signatory or of the industrial establishment or site shall alter signatory's responsibilities under this Remediation Agreement.

28. [Responsible Person(s)] agrees not to contest the authority or jurisdiction of the NJDEP to issue this Remediation Agreement; [Responsible Person(s)] further agrees not to contest the terms or conditions of this Remediation Agreement except as to interpretation or application of such specific terms and conditions that are being enforced in any action brought by the NJDEP to enforce the provisions of this Remediation Agreement.

29. [Responsible Person(s)] shall provide to the NJDEP written notice of the dissolution of its corporate or partnership identity, the liquidation of the majority of its assets or the closure, termination or transfer of operations at least five (5) calendar days prior to such action. [Responsible Person(s)] shall also provide written notice to the NJDEP of a filing of a petition for bankruptcy no later than five business days after such filing. These requirements shall be in addition to any other statutory requirements arising from the dissolution of corporate or partnership identity, the liquidation of the majority of assets, or the closure, termination or transfer of operations.

30. For persons executing this Remediation Agreement on behalf of a corporate entity, [Responsible Person(s)] shall submit to the NJDEP, along with the executed original Remediation Agreement, documentary evidence in the form of a corporate resolution, that the signatory has the authority to bind [Responsible Person(s)] to the terms of this Remediation Agreement.

31. [Responsible Person(s)] expressly agrees that in the event that [Responsible Person(s)] fails or refuses to perform any obligation(s) under this Remediation Agreement as determined by the NJDEP, the NJDEP shall have the right to exercise any option or combination of options available to the NJDEP under this Remediation Agreement, or any other statute.

32. Except as otherwise provided, the requirements of this Remediation Agreement shall be deemed satisfied upon the receipt by [Responsible Person(s)] of written notice from the NJDEP that [Responsible Person(s)] has demonstrated, to the satisfaction of the NJDEP, that [Responsible Person(s)] has completed the substantive and financial obligations imposed by this Remediation Agreement. Such written notice shall not relieve [Responsible Person(s)] from the obligation to conduct future investigation or remediation activities pursuant to Federal, State or local laws for matters not addressed by this Remediation Agreement.

33. Compliance with the terms of this Remediation Agreement shall not excuse any Person(s) from obtaining and complying with any applicable federal, state or local permits, statutes, regulations and/or orders while carrying out the obligations imposed by ISRA through this Remediation Agreement. The execution of this Remediation Agreement shall not excuse any Person(s) from compliance with all other applicable environmental permits, statutes, regulations and/or orders and shall not preclude NJDEP from requiring that the Person(s) obtain and comply with any permits, and/or orders issued by NJDEP under the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., for the matters covered herein. The terms and conditions of any such permit shall not be preempted by the terms and conditions of this Remediation Agreement if the terms and conditions of any such permit are more stringent than the terms and conditions of this Remediation Agreement. Should any of the measures to be taken by the Person(s) during the remediation of any ground water and surface water pollution result in a new or modified discharge as defined in the New Jersey Pollutant Discharge Elimination System (NJPDES) regulations, N.J.A.C. 7:14A-1 et seq., then the Person(s) shall obtain a NJPDES permit or permit modification from NJDEP prior to commencement of said activity.

34. This Remediation Agreement shall be effective upon the execution of this Remediation Agreement by the NJDEP and the [Responsible Person(s)]. [Responsible Person(s)] may consummate the transaction described at Paragraph 2.A above, upon the execution of this Remediation Agreement. [Responsible Person(s)] shall return a fully executed Remediation Agreement to the NJDEP together with the signature authorization required above within five business days from the effective date.

NEW JERSEY DEPARTMENT OF

ENVIRONMENTAL PROTECTION

Date: _____ By: _____
Assistant Director
Site Remediation Program

[NAME OF PERSON EXECUTING AGREEMENT]

Date: _____ By: _____
[of]

Print Full Name Signed Above

Title

APPENDIX B

STANDARD LANDLORD/TENANT PETITION

Landlord/Tenant Petition, Pursuant to N.J.S.A. 13:1K-11.9, Requesting the Department of Environmental Protection to First Compel the Other Responsible Person to Comply With the Industrial Site Recovery Act ("ISRA") Based Upon the Parties' Prior Agreement Pursuant to Their Lease.

Both the owner and operator of an industrial establishment are responsible for remediation of any industrial establishment pursuant to N.J.S.A. 13:1K-6 et seq. However, pursuant to N.J.S.A. 13:1K-11.9, where owner is the Landlord and operator is the Tenant and there has been a failure to comply with ISRA, either of those parties may petition the Department of Environmental Protection to request that the Department first compel the other party to comply with ISRA pursuant to a clearly articulated Lease between the parties concerning the subject industrial establishment. This Petition follows:

PETITION

["Name of Landlord or Tenant"] is the [Landlord or Tenant] for ISRA Case No. [] pursuant to a Lease entered into on [Date] with [Name of Landlord or Tenant], [Landlord or Tenant].

[Name of Landlord or Tenant] states that it desires the Department to exercise its discretion to first require [Name of Landlord or Tenant], who is the [Landlord or Tenant], to comply with ISRA with respect to the following property [Lot(s)/Block(s) and Leasehold unit number] the ("industrial establishment").

[Name of Landlord or Tenant] desires that if the Department is satisfied that the Lease clearly reflects an agreement by the parties to the Lease that [Name of Landlord or Tenant] is to be responsible for the ISRA obligations, the Department will agree to first pursue [Landlord/Tenant] to compel compliance with ISRA.

Attached for the Department's review are the following documents in support of this Petition.

1. Landlord's and Tenant's full names and current addresses;
2. A true and correct copy of the fully executed and dated subject Lease, together with any and all Addenda and Riders to that Lease;
3. A copy of the General Information Notice for the ISRA case referenced above;
4. True and correct copies of any and all contracts, agreements, orders and remediation agreements which [Name of Landlord or Tenant] believes may affect the interpretation of the subject lease and the parties' respective responsibilities and remediation obligations pursuant to ISRA and that Lease;

5. A narrative, which identifies, in [Name of Landlord or Tenant=s] view, the pertinent sections in the lease, and interpretation of the those sections;
6. A separate, notarized Affidavit, executed by [Name of Landlord or Tenant], that articulates all relevant facts which, in [Name of Landlord's or Tenant's] view, support and explain any non-compliance with ISRA and the Lease;
7. Copies of any pleadings and discovery documents generated in any lawsuit involving the subject industrial establishment and/or the subject Lease;
8. Copies of any writings issued by the Department of Environmental Protection, to either ISRA responsible party or to any ISRA agent, concerning the subject Lease or the subject industrial establishment and the respective responsibilities of each such party concerning this ISRA transaction; and
9. Any other documents which [Name of Landlord or Tenant] believes may assist the Department in its determination.

Within thirty (30) calendar days after the Department determines that it has received a complete Petition, the Department will advise all parties to the lease of its determination as to whether the Lease is clear in identifying [Name of Landlord or Tenant] as responsible for complying with ISRA under the Lease. [Name of Landlord or Tenant] understands that the Department may require further information, clarification or additional documentation in order to complete this Petition.

The information contained within this Petition, including any documents submitted to the Department in support of this Petition, is complete and accurate to the best of [Name of Landlord or Tenant's] knowledge, information and belief, and, by executing this Petition below, [Name of Landlord or Tenant] hereby certifies to its completeness and accuracy, and also, that [Name of Landlord or Tenant] will notify the Department immediately should new or additional information come to light which may have a bearing upon interpretations of the subject Lease, or the parties' respective ISRA responsibilities, under the lease.

Dated:_____

Name:_____
[Landlord or Tenant]
For ISRA Case No.[_____]

Print Full Name Signed Above

Title